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सं. 30]

नई दिल्ली, जुलाई 19—जुलाई 25, 2015, शनिवार/आषाढ़ 28—श्रावण 3, 1937

No. 30]

NEW DELHI, JULY 19—JULY 25, 2015, SATURDAY/ASADHA 28—SRAVANA 3, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कारपोरेट कार्य मंत्रालय

नई दिल्ली, 15 जुलाई, 2015

का.आ. 1473.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) 1976 के नियम 10 के उप-नियम (4) के अनुसरण में कारपोरेट कार्य मंत्रालय के अंतर्गत गंभीर धोखाधड़ी जांच कार्यालय को, जिसके 80% से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[सं. ई-11016/1/2010-हिन्दी]
सुरेश पाल, संयुक्त सचिव

MINISTRY OF CORPORATE AFFAIRS

New Delhi, the 15th July, 2015

S.O. 1473.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies Serious Fraud Investigation Office, under Ministry of Corporate Affairs, wherein more than 80% staff members have acquired working knowledge of Hindi.

[No. E-11016/1/2010-Hindi]
SURESH PAL, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 6 जुलाई, 2015

का.आ. 1474.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है:—

अनुसूची

भारतीय मानक संख्या	भाग	अनुभाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क		इकाई दर स्लैब 1 (रु०)	स्लैब में इकाईयां	शेष	प्रचालन तिथि
						बड़े पैमाने पर	छोटे पैमाने पर				
737	-	-	2008	सामान्य इंजीनियरी प्रयोजनों के लिए पिटवॉ एल्युमिनियम एवं एल्युमिनियम मिश्र धातु की चादर एवं पत्ति—विशिष्ट	एक किलो ग्राम	37,800.00	32,100.00	0.34	सभी	-	30.09.2014

[संदर्भ सं० सीएमडी-2/16:737]

जी० गुरुचरण, महानिदेशक

MINISTRY OF CONSUMERS AFFAIRS FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 6th July, 2015

S.O. 1474.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule:

SCHEDULE

IS No.	Part	Sec.	Year	Product	Units	Minimum Marking Fee		Unit Rate Slab-1	Units in Slab-1	Remain-ing	Effective Date
						Large Scale	Small Scale				
737	-	-	2008	Wrought Aluminium and Aluminium alloy sheet and strip for general engineering purposes—Specification.	1 Kg.	37,800.00	32,100.00	0.34	All	-	30.09.2014

[Ref. No. CMD-2/16 : 737]

G. GURUCHARAN, Director General

नई दिल्ली, 6 जुलाई, 2015

का.आ. 1475.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है:—

अनुसूची

भारतीय मानक संख्या	भाग	अनुभाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क		इकाई दर स्लैब 1 (रु०)	स्लैब में इकाईयां	शेष	प्रचालन तिथि
						बड़े पैमाने पर	छोटे पैमाने पर				
6911	-	-	1992	स्टेनलैस इस्पात की प्लेट, चदरें तथा पत्तियां—विशिष्ट (पहला पुनरीक्षण)	एक टन	54,100.00	43,300.00	240.00	सभी	-	15.05.2015

[संदर्भ सं० सीएमडी-2/16: 6911]

जी० गुरुचरण, महानिदेशक

New Delhi, the 6th July, 2015

S.O. 1475.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule:—

SCHEDULE

IS No.	Part	Sec.	Year	Product	Units	Minimum Marking Fee		Unit Rate Slab-1	Units in Slab-1	Remain-ing	Effective Date
						Large Scale	Small Scale				
6911	-	-	1992	Stainless Steel plate, strip & sheet	1tonne	54,100.00	43,300.00	240.00	All	-	15.05.2015

[Ref. No. CMD-2/16 : 6911]

G. GURUCHARAN, Director General

नई दिल्ली, 6 जुलाई, 2015

का.आ. 1476.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है:—

अनुसूची

भारतीय मानक संख्या	भाग	अनुभाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क		इकाई दर स्लैब में इकाईयां	शेष	प्रचालन तिथि
						बड़े पैमाने पर	छोटे पैमाने पर			
8952	-	-	1995	सामान्य इंजीनियरी प्रयोजनों की मृदु इस्पात तार छड़ों के उत्पादन के लिए इस्पात इंगट, ब्लूम और बिलेट—विशिष्ट	मी० टन	34,000.00	29,000.00	56.00	सभी	- 31.07.2014

[संदर्भ सं० सीएमडी-2/16 : 8952]

जी० गुरुचरण, महानिदेशक

New Delhi, the 6th July, 2015

S.O. 1476.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule:—

SCHEDULE

IS No.	Part	Sec.	Year	Product	Units	Minimum Marking Fee		Unit Rate Slab-1	Units in Slab-1	Remain-ing	Effective Date
						Large Scale	Small Scale				
8952	-	-	1995	Steel Ingots, Blooms and Billets for production of mild steel wire rods for general Engineering purposes	MT	34,000.00	29,000.00	56.00	All	-	31.07.2014

[Ref. No. CMD-2/16 : 8952]

G. GURUCHARAN, Director General

नई दिल्ली, 6 जुलाई, 2015

का.आ. 1477.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है:—

अनुसूची

भारतीय मानक संख्या	भाग	अनुभाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क		इकाई दर स्लैब में इकाईयां	शेष	प्रचालन तिथि
						बड़े पैमाने पर	छोटे पैमाने पर			
15965	-	-	2012	पूर्व-रोगन की गई एल्युमिनियम जिंक मिश्र धातु लेपित इस्पात पत्ती एवं चादरें (सादा)	मी० टन	65000	52000	125	सभी	- 09.06.2015

[संदर्भ सं० सीएमडी-2/16:15965]

जी० गुरुचरण, महानिदेशक

New Delhi, the 6th July, 2015

S.O. 1477.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule:

SCHEDULE

IS No.	Part	Sec.	Year	Product	Units	Minimum Marking Fee		Unit Rate Slab-1	Units in Slab-1	Remain- ing	Effective Date
						Large Scale	Small Scale				
15965	-	-	2012	Pre-painted Aluminium Zinc alloy metallic coated steel strip and sheet (Plain)	MT	65000	52000	125	All	-	09.06.2015

[Ref. No. CMD-2/16 : 15965]

G. GURUCHARAN, Director General

नई दिल्ली, 15 जुलाई, 2015

का.आ. 1478.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृति करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भा.मा. सं./भाग/खण्ड/वर्ष
(1)	(2)	(3)	(4)	(5)	(6)
1	7800005110	04.06.2015	वर्ल्डवाइड सेप्टी डिवाइसेस यूनिट सं० 1064, पहला माला भांडूप इंडस्ट्रियल इस्टेट, भांडूप - प पन्नालाल कम्पाउण्ड, एलबीएस मार्ग, मुंबई-400078	एक्सप्लोसिव ऐटमॉस्फेअर्स-भाग-1 फ्लेमप्रूफ इनक्लोजर 'डी' द्वारा उपस्कर संरक्षा	भा.मा. आयईसी 60079 : भाग - 1 : 2007
2	7800005211	04.06.2015	प्रकाश एग्रो प्लास्ट गट सं० 119 प्लॉट सं० 30, लोनवडे मालेगांव, जिला : नासिक - 423203	सिंचाई उपस्कर — सिंचाई लैटरलों हेतु पॉलीथिलीन पाईप	भा.मा. 12786:1989
3	7800005312	04.06.2015	प्रकाश एग्रो प्लास्ट गट सं० 119 प्लॉट सं० 30, लोनवडे मालेगांव, जिला : नासिक - 423203	उत्सर्जन पाईप प्रणाली	भा.मा. 13488:2008
4	7800005413	22.06.2015	पी आर एग्रो इंडस्ट्रीज़ यूनिट नं०. 02, पार्श्वनाथ इंडस्ट्रियल इस्टेट एनएच नं० 8, गोल्डेन तुलिप होटल के सामने, एलेक्स ज्वेलर के पास वालिव, जिला: ठाणे - 401208	गैस मेन्स, जल मेन्स और मलजल के लिए रबड़ सीलिंग रिंग	भा.मा. 5382 : 1985
5	7800005514	22.06.2015	प्रिसिशन इलेक्ट्रीकल्स, गाला सं० 3 एवं 4, तल मंजिल, चौधरी इंटरनेशनल इण्डस्ट्रीयल इस्टेट, विलेज नवधर, वसई पूर्व, जिला ठाणे - 401210	बेयोनेट लैम्प होल्डर	भा.मा. 1258 : 2008
6	7800005615	22.06.2015	प्रिसिशन इलेक्ट्रीकल्स, गाला सं० 3 एवं 4, तल मंजिल, चौधरी इंटरनेशनल इण्डस्ट्रीयल इस्टेट, विलेज नवधर, वसई पूर्व, जिला ठाणे - 401210	सिलिंग रोज	भा.मा. 371 : 1999

(1)	(2)	(3)	(4)	(5)	(6)
7	7800005716	23.06.2015	ठक्कर इनऑर्गेनीक्स प्रा० लि०, एच०ओ०सी० एनसील्लरी इंडस्ट्रियल इस्टेट, प्लॉट सं० 13, तुराडे विलेज के पास, रसायनी, जिला : रायगढ़ - 410207	एल्यूमिनो - फेरिक	भा० मा० 299 : 2012

[सं० केन्द्रीय प्रमाणन विभाग/13:11]
टी० कलैवाणन, प्रमुख (एमयूबीओ-ईईई)

New Delhi, the 15th July, 2015

S.O. 1478.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule:

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and address (factory) of the party	Product	IS No/Part/ Sec Year
1	7800005110	04.06.2015	Worldwide Safety Devices Unit No. 1064, First Floor, Bhandup Indl. Estate, Panallal Compound, LBS Marg, Bhandup (W) Mumbai - 400078	Explosive atmospheres part I equipment protection by flame- proof enclosures “d”	IS/IEC 60079: Part 1 : 2007
2	7800005211	04.06.2015	Prakash Agro Plast Gat No. 119, Plot No. 30, Lonwade Malegaon, Distt.: Nashik - 423203	Irrigation equipment-polyethy- lene pipes for irrigation laterals	IS 12786 : 1989
3	7800005312	04.06.2015	Prakash Agro Plast, Gat No. 119, Plot No. 30, Lonwade Malegaon, Distt.: Nashik - 423203	Emitting pipes system	IS 13488 : 2008
4	7800005413	22.06.2015	P.R. Agro Industries, Unit No. 02, Parshwanath Indl. Estate, N.H. No. 8, Opp: Golden Tulip Hotel, Near Alex Jewellery, Waliv, Distt: Thane - 401208	Rubber sealing rings for gas mains Water mains and sewers	IS 5382 : 1985
5	7800005514	22.06.2015	Precision Electricals, Gala No. 3 & 4, Ground Floor, Choudhary Internal Industrial, Estate, Village: Navghar Vasai (E) Distt.: Thane - 401210	Bayonet lamp holders	IS 1258 : 2005
6	7800005615	22.06.2015	Precision Electricals, Gala No. 3 & 4, Ground Floor, Choudhary Internal Industrial, Estate, Village: Navghar Vasai (E) Distt.: Thane - 401210	Ceiling roses	IS 371 : 1999
7	7800005716	23.06.2015	Thakkar Inorganics Pvt. Ltd., H.O.C. Ancillary Indl. Estate, Plot No. 13, Near Turade Village, Rasayani, Distt. Raigad - 410207	Alumino-ferric	IS 299 : 2012

[No. CMD/13 : 11]
T. KALAIVANAN, Head (MUBO-EEE)

अंतरिक्ष विभाग

बेंगलूर, 14 जुलाई, 2015

का०आ० 1479.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में एतद्वारा अंतरिक्ष विभाग के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्य-साधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

द्रव नोदन प्रणाली केंद्र

80 फीट रोड, एच०ए०एल० II स्टेज एच०पी०ओ०,

बेंगलूर-560008

[सं० 8/1/10/2011-हि०]

बी० अनिल कुमार, उप सचिव

DEPARTMENT OF SPACE

Bangalore, the 14th July, 2015

S.O. 1479.—In pursuance of Sub-rule (4) of the Rule 10 of the Official Language (use for official purpose of the Union) Rule, 1976, the Central Government, hereby notifies the following Office of the Department of Space, whereof more than 80 percent staff have acquired the working knowledge of Hindi.

Liquid Propulsion Systems Centre,
80 Feet Road, HAL IIInd Stage HPO,
Bangalore-560008

[No. 8/1/10/2011-H]

B. ANIL KUMAR, Dy. Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 14 जुलाई, 2015

का०आ० 1480.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट (संदर्भ संख्या 98/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/07/2015 को प्राप्त हुआ था।

[सं० एल-12012/158/1999-आईआर(बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 14th July, 2015

S.O. 1480.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 98/1999) of the

Central Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 14/07/2015.

[No. L-12012/158/1999-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

Present: Shri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 98 OF 1999

Parties: The Management of State Bank of India,
Burdwan
Vs.
Sri Gopal Chandra Dutta

REPRESENTATIVES:

For the management: Sri A. Chakraborty, Ld. Adv.
For the union (Workman): Sri P.K. Das, Ld. Adv.
Industry: Bank State: West Bengal
Dated: 24.06.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-12012/158/1999-IR(B-I) dated 05.08.1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of management of State Bank of India, Zonal Office, Region IV Burdwan in termination the service of Shri Gopal Chandra Dutta, Messenger on 31.03.1997 is legal and justified, if not what relief the workman is entitled to?"

Having received the order No. L-12012/158/1999-IR (B-I) dated 05.08.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 98 of 1999 was registered on 18.08.1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Sri A. Chakraborty, Learned Advocate for the management (State Bank of India, Zonal Office, Burdwan) and Sri P.K. Das, Learned Advocate for the

workman (Sri Gopal Chandra Dutta) are present.

Mr. P.K. Das submits that the case may be closed and a 'No dispute Award' may be passed as he has got no instruction from the workman. He has also mentioned it on the order sheet. On perusal of case record I find that the workman is neither appearing nor taking any step from 09.06.2009 for his cross-examination. It seems that the workman is now not at all interested to proceed with the case further. The case is also very old—in the year 1999. As such the case is closed and a 'No Dispute Award' may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 14 जुलाई, 2015

का०आ० 1481.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ०सी०आई० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 391/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/318/2002-आईआर(सी-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 14th July, 2015

S.O. 1481.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Govt. hereby publishes the Award (Ref. No. 391/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the industrial dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 14/07/2015.

[No. L-22012/318/2002-IR(C-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT: Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 391/2005

Registered on 19.8.2005

Sh. Rajesh Kumar, son of Sh. Mann Singh, resident of H.No. 21/3, Rajiv Colony, Kaithal Road, Karnal... Petitioner

Versus

The District Manager, Food Corporation of India, District Karnal. ...Respondents

APPEARANCES

For the workman Sh. Jai Pal, Adv.

For the management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 15.6.2015

Central Government *vide* Notification No. L-22012/318/2002 -IR(C-II) Dated 20.7.2005, by exercising its powers under section 10 Sub-Section (1) Clause (d) and Sub-Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Food Corporation of India in terminating the services of Sh. Rajesh Kumar, S/o Sh. Ram Pal *w.e.f.* 1.1.1997 is legal and justified? If not, to what relief is the workman entitled?"

In response to the notice, the claimant appeared and submitted statement of claim pleading that he was appointed as Security Guard on daily wage basis on 16.2.1995 by the respondent management and he continued as such till September, 1998 when his services were terminated without paying him retrenchment compensation or service of notice. It is further pleaded that the persons junior to him were retained in service and even fresh appointments were made. As such the termination of his services is illegal and he be reinstated in service with full back wages.

Management *i.e.* FCI filed written statement controverting the averments and pleaded that workman was never employed by it. Management has entered into an agreement with M/s. Ex-servicemen Security Services, Kurukshetra for deployment of watch and ward staff for the protection of food grains from time to time as and when required and the workman was appointed by the said agency. That the payment was used to be made to the contractor who is turn used to make the same to its employees. That no appointment letter or termination letter was issued to the workman. The management has no administrative or disciplinary control over him. Since there was no relationship of employer and employee between the parties, the workman is not entitled to any relief.

Parties were given opportunity to lead their evidence.

In support of its case Rajesh Kumar workman appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition. He has also examined Sh. Parveen Kumar who was the contractor of the management. He did not say anything in favour of the workman. He has deposed in his affidavit that management has given contract to Ex-servicemen Security Services for

supplying manpower and an agreement dated 24.2.1986 was executed. That they used to supply security guards to the management and had control over them.

On the other hand, the management has examined Sh. Silky Sona Singla who filed his affidavit reiterating the averments as contained in the written statement.

I have heard Sh. Jaipal, counsel for the workman and Sh. N.K. Zakhmi, counsel for the management.

It was vehemently contended by the learned counsel for the workman that workman continuously worked with the management from February, 1995 to September, 1998 and his services were terminated without payment of any retrenchment compensation and therefore the termination order is illegal. He has further contended that the persons junior to him were retained in service and even fresh appointments were made which are in violation of the provisions of the Act and workman is entitled to be reinstated in service.

I have considered the contention of the learned counsel.

Workman pleaded that he was appointed as Security Guard on daily wage basis by the management in February, 1995 and his services were terminated in September, 1998. The respondent management has pleaded that workman was appointed by the contractor *i.e.* M/s. Ex-servicemen Security Services and as such, the management admits that the workman worked with it for the period in question but as a man of the Company to whom contract was given for deploying watch and ward staff. In these circumstances, it was for the management to prove that it has given contract to M/s. Ex-servicemen Security Services and the workman was on its rolls. But the management did not lead any cogent evidence in this respect. However, the workman himself has examined Parveen Kumar who is from the said agency and deposed that the management has given a contract in the year 1986 which was renewed upto the year 1999. Though he did not place on record any contract entered into between the parties after 1986 and again he did not state that the workman was its employee, but still the statement of the workman himself prove that he was not employed by the management but he was a man of the said agency.

The workman has specifically admitted that he was deputed for duty by the Ex-servicemen Security Services to different depots of the managements. That the said agency used to record his attendance and was deducting his PF from his wages. It was the Ex-servicemen Security Services who deputed him for duty. Thus, his statement clinches the issue that it was M/s. Ex-servicemen Security Services who was deputing him to different depots and was marking his attendance as well was deducting his PF and being so, it cannot be said that he was the employee of the management and rather his own cross-examination proves that he was engaged by M/s. Ex-servicemen Security

Services. There is nothing on the file that he ever received any wages from the respondent management and no appointment letter has been placed on the file and these facts further disapprove the case of the workman that he was ever engaged by the respondent management.

In result, workman has failed to prove that he was an employee of the management or was ever engaged by it. When it is so, it cannot be said that his services were terminated by the management and he is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 14 जुलाई, 2015

कांआ० 1482.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ०सी०आई० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 389/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/206/2002-आईआर (सी-II)]

मो० जाहिर शरीफ, अनुभाग अधिकारी

New Delhi, the 14th July, 2015

S.O. 1482.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Cent. Govt. hereby publishes the Award (Ref. No. 389/2005) of the Central Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the industrial dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 14/07/2015.

[No. L-22012/206/2002-IR(C-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 389/2005

Registered on 19.8.2005

Sh. Manjeet Kumar, son of Sh. Mann Singh, resident of H.No. 21/3, Rajiv Colony, Kaithal Road, Karnal.

Through LR's

1. Smt. Sneha Lata widow of late Sh. Manjeet Kumar (deceased).
2. Sh. Mohit, son of late Sh. Manjeet Kumar.
3. Ms. Mehak, daughter of Late Sh. Manjeet Kumar.
4. Sh. Hardeep Singh, son of Late Sh. Manjeet Kumar.

...Petitioner

Versus

The District Manager, Food Corporation of India, District Karnal.

Respondents

APPEARANCES

For the workman Sh. Jai Pal, Adv.

For the management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 15.6.2015

Central Government *vide* Notification No. L-22012/206/2002 -IR(C-II) Dated 4.8.2005, by exercising its powers under Section 10 Sub section (1) Clause (d) Sub section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Food Corporation of India in terminating the services of Sh. Manjeet Kumar, S/o Sh. Mann Singh *w.e.f.* 1.7.1996 is legal and justified? If not, to what relief is the workman entitled?"

In response to the notice, the claimant appeared and submitted statement of claim pleading that he was appointed as Security Guard on daily wage basis on 16.2.1995 by the respondent management and he continued as such till September, 1998 when his services were terminated without paying him retrenchment compensation or service of notice. It is further pleaded that the persons junior to him were retained in service and even fresh appointments were made. As such the termination of his services is illegal and he be reinstated in service with full back wages.

Management *i.e.* FCI filed written statement controverting the averments and pleaded that workman was never employed by it. Management has entered into an agreement with M/s. Ex-servicemen Security Services, Kurukshetra for deployment of watch and ward staff for the protection of foodgrains from time to time as and when required and the workman was appointed by the said agency. That the payment was used to be made to the contractor who in turn used to make the same to its employees. That no appointment letter or termination letter was issued to the workman. The management has no administrative or disciplinary control over him. Since there was no relationship of employer and employee between the parties, the workman is not entitled to any relief.

During the pendency of the reference, the workman died and his Legal Representatives were brought on record *vide* order dated 17-10-2007.

Parties were given Opportunity to lead their evidence.

In support of its case Smt. Sneha Lata, LR workman appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition. She has also examined Sh. Parveen Kumar who was the contractor of

the management. He did not say anything in favour of the workman. He has deposed in his affidavit that management has given contract to Ex-servicemen Security Services for supplying manpower and an agreement dated 24.2.1986 was executed. That they used to supply security guards to the management and had control over them.

On the other hand, the management has examined Sh. Silky Sona Singla who filed his affidavit reiterating the averments as contained in the written statement.

I have heard Sh. Jaipal, counsel for the workman and Sh. N.K. Zakhmi, counsel for the management.

It was vehemently contended by the learned counsel for the workman that workman continuously worked with the management from February, 1995 to September, 1998 and his services were terminated without payment of any retrenchment compensation and therefore the termination order is illegal.

I have considered the contention of the learned counsel.

Workman pleaded that he was appointed as Security Guard on daily wage basis by the management in February, 1995 and his services were terminated in September, 1998. Thus, it was for the workman to prove by leading cogent evidence that he was appointed by the management in February, 1995. As stated above, workman has died during the pendency of the reference and his wife appeared in the witness box and she stated that she could not produce any appointment letter issued by the management. There is no cogent evidence on the file to prove that the workman was actually appointed by the management at any point of time except the bare statement of Sneha Lata who is simply a Legal Representative of the workman. Nothing has come on the file that workman has ever received wages from the respondent management. When he was not paid wages by the management, it cannot be said by any stretch of imagination that he was ever an employee of the management. Though, Mr. Parveen Kumar has been examined on behalf of the workman, but he did not advance the case of the workman in any way, rather has stated that a contract was given to M/s. Ex-servicemen Security Services for employing workers. In the absence of any cogent and convincing evidence on the file, it cannot be said that workman was ever engaged by the management who has specifically pleaded that it has given contract to M/s. Ex-servicemen Security Services to provide Security Guards and the bare statement of Sneha Lata cannot be believed.

Thus, it is held, that it is not proved on the file that workman was an employee of the respondent management.

In result, the reference is answered against the workman holding that he was not an employee of management and he is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 14 जुलाई, 2015

कांआ 1483.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ०सी०आई० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध 1 में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 383/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/76/2003-आई आर (सी-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 14th July, 2015

S.O. 1483.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 383/2005 of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the industrial dispute between the management Food Corporation of India, and their workmen, received by the Central Government on 14/07/2015.

[No. L-22012/76/2003-IR(C-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 383/2005

Registered on 19.8.2005

Sh. Sandeep Kumar, son of Sh. Man Singh, resident of H.No. 21/3 Rajiv Colony, Kaithal Road, Karnal.

.....Petitioner

Versus

The District Manager, Food Corporation of India, District Karnal.

....Respondents

APPEARANCES:

For the Workman Sh Jai Pal, Adv.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 15.6.2015

Central Government *vide* Notification No. L-22012/76/2003-IR(C-II) Dated 5.8.2005, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Food Corporation of India in terminating the services of Sh. Sandeep Kumar, S/o Sh. Man Singh *w.e.f.* 5.11.1997 is legal and justified? If not, to what relief is the workman entitled?"

In response to the notice, the claimant appeared and submitted statement of claim pleading that he was appointed as Security Guard on daily wage basis on 16.2.1995 by the respondent management and he continued as such till September, 1998 when his services were terminated without paying him retrenchment compensation or service of notice. It is further pleaded that the persons junior to him were retained in service and even fresh appointments were made. As such the termination of his services is illegal and he be reinstated in service with full back wages.

Management *i.e.* FCI filed written statement controverting the averments and pleaded that workman was never employed by it. Management has entered into an agreement with M/s Ex-Servicemen Security Services, Kurukshetra for deployment of watch and ward staff for the protection of foodgrains from time to time as and when required and the workman was appointed by the said agency. That the payment was used to be made to the contractor who in turn used to make the same to its employees. That no appointment letter or termination letter was issued to the workman. The management has no administrative or disciplinary control over him. Since there is no relationship of employer and employee between the parties, the workman is not entitled to any relief.

Parties were given opportunity to lead their evidence.

In support of its case, workman appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition. He has also examined Sh. Parveen Kumar who was the contractor of the management who did not say anything in favour of the workman. He has deposed in his affidavit that management has given contract to Ex-servicemen Security Services for supplying manpower and an agreement dated 24.2.1986 was executed. That they used to supply security guards to the management and had control over them.

On the other hand, the management has examined Sh. Silky Sona Singla who filed his affidavit reiterating the averments as contained in the written statement.

I have heard Sh. Jaipal, counsel for the workman and Sh. N.K. Zakhmi, counsel for the management.

It was vehemently contended by the learned counsel for the workman that workman continuously worked with the management from February, 1995 to September, 1998 and his services were terminated without payment of any retrenchment compensation and therefore the termination order is illegal. He has further contended that the persons junior to him were retained in service and even fresh appointments were made which are in violation of the provisions of the Act and workman is entitled to be reinstated in service.

I have considered the contention of the learned counsel.

Workman pleaded that he was appointed as Security Guard on daily wage basis by the management in February,

1995 and his services were terminated in September, 1998. The respondent management has pleaded that workman was appointed by the contractor *i.e.* M/s Ex-servicemen Security Services and as such, the management admits that the workman worked with it for the period in question but as a man of the Company to whom contract was given for deploying watch and ward staff. In these circumstances, it was for the management to prove that it has given contract to M/s Ex-servicemen Security Services and the workman was on its rolls but the management did not lead any cogent evidence in this respect. However, the workman himself has examined Parveen Kumar who is from the said agency and deposed that the management has given a contract in the year 1986 which was renewed upto the year 1999. Though he did not place on record any contract entered into between the parties after 1986 and again he did not state that the workman was its employee, but still the statement of the workman himself prove that he was not employed by the management but he is a man of the said agency.

The workman has specifically admitted that he was deputed for duty by the Ex-servicemen Security Services to different depots of the managements. That the said agency used to record his attendance and was deducting his PF from his wages. It was for the Ex-servicemen Security Services who deputed him for duty. Thus, his statement clinches the issue that it was M/s Ex-servicemen Security Services who was deputing him to different depots and was marking his attendance as well was deducting his PF and being so, it cannot be said that he was the employee of the management and rather his own cross-examination proves that he was engaged by M/s Ex-servicemen Security Services. There is nothing on the file that he ever received any wages from the respondent management and no appointment letter has been placed on the file and these facts further disapprove the case of the workman that he was ever engaged by the respondent management.

In result, workman has failed to prove that he was an employee of the management or was ever engaged by it. When it is so, it cannot be said that his services were terminated by the management and he is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली 14 जुलाई, 2015

का.आ. 1484.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ.सी.आई. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या

117/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/07/2015 को प्राप्त हुआ था।

[सं. एल-22011/55/2010-आई आर (सीएम-2)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 14th July, 2015

S.O. 1484.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 117/2011 of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India and their workmen, received by the Central Government on 14/07/2015.

[No. L-22011/55/2010-IR(CM-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: SRI KEWAL KRISHAN, Presiding Officer.

Case No. I.D. No. 117/2011

Registered on 21.2.2011

The General Secretary, Food Corporation of India Handling Workers Union, 8651, Arakshan Road, Paharganj, New Delhi-55.
.....Petitioner

Versus

The General Manager (Region), Food Corporation of India, Regional office, Punjab, Bay No. 34-38, Sector 31/4, Chandigarh.
Respondents

APPEARANCES:

For the Workman Mr. P.K. Longia, Adv.
For the Management Mrs. Kavita Sharma, Adv.

AWARD

Passed on 29.6.2015

Central Government *vide* Notification No. L-22011/55/2010/IR(CM-II) Dated 4.2.2011, by exercising its powers under Section 10 Sub section (1) Clause (d) and Sub section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the Area Manager, Food Corporation of India, Gurdaspur Punjab, in terminating the services of workman Sh. Ruldu Ram Ex. Handling Worker *w.e.f.* 8.5.2009 and also the non-payment of wages *w.e.f.* 9.11.2006 to 5.12.2006 is legal and justified? To what relief the workman is entitled to and from which date?"

In response to the notice, the workman appeared and submitted statement of claim pleading that workman was

working in FCI, FSD, Dinanagar, District Gurdaspur as Handling Labour since 1993. The management issued show cause notice dated 24.4.2009 to all Sardar and Mondal of Gang No. 1 to 4 to explain why they stopped unloading of trucks. That the workman and four other labourers were transferred to Chandigarh *vide* order dated 8.5.2009 regarding which an appeal was preferred before the General Manager, Chandigarh *vide* application dated 5.6.2009. His services were terminated by the Area Manager under Clause 13 of the I.E.(S.O.) Act, 1946 *w.e.f.* 8.5.2009 *vide* order dated 27.7.2009.

That the order of termination is illegal as his services cannot be terminated summarily and he was not given any opportunity of being heard and without establishing his misconduct. That he was not paid salary for 23 days during the period 14.11.2006 to 5.12.2006 and since his termination order is illegal, he be reinstated in service.

Respondent management filed written reply pleading that a notice dated 22.6.2009 was issued to the workman for provoking the handling workers of Dinanagar on 21.4.2009 and stopping the loading of wheat stocks. He was asked to explain his conduct within seven days. Since workman did not bother to file the reply, as per provisions of Clause 13 of the Industrial Employment (Standing Order) Act, 1946, (hereinafter called the order) his services were terminated *vide* order dated 27.7.2009. That the termination order is legal and valid.

Parties were given opportunities to lead their evidence.

Workman appeared in the witness box and filed his affidavit reiterating his case as set out in the claim petition.

On the other hand the management has examined Sh. Dinesh Tripathi, who filed his affidavit, reiterating the stand taken by the management in the written statement.

I have heard Sh. P.K. Longia, counsel for the workman and Mrs. Kavita Sharma, counsel for the management.

The admitted facts are that the workman was working as a handling labourer in FCI at FSD, Dinanagar. The learned counsel for the management advanced arguments on the lines of the averments as contained in the written statement and submitted that the termination order dated 27.7.2009 Annexure H is legal and valid as workman failed to give reply to the show cause notice given to him on 22.6.2009 and the action has rightly been taken under Section 13 of the order. In order to appreciate the contention of the learned counsel, the order dated 27.7.2009 is reproduced as follow:—

Whereas a show cause notice No. IRL/A/(2)/DPS/DNN/2003/1881 dated 22.6.2009 was issued to Sh. Ruldu Ram HL FSD Dinanagar for provoking the Handling workers of Dinanagar centre on 21.4.2009 and stopping the unloading/loading of wheat stocks being received from various mandis operated by FCI. The stoppage of work was without any appropriate cause.

Whereas the said Sh. Ruldu Ram HL was directed *vide* show cause notice referred above to explain the reasons/

circumstances under which he provoked the workers to stop the unloading/loading operations in the depot and thereby putting the corporation to not only financial loss but also affecting operational work.

Whereas he said Sh. Ruldu Ram was also directed to submit his reply if any within 7 days from the receipt of his SCN failing which his services were liable to be terminated under Industrial Employment (Standing Orders) Act, 1946. But the said Sh. Ruldu Ram did not bother to furnish the reply of the above SCN till date. So, it clearly indicate that he is not willing to continue any more in the services of FCI as handling Labour.

Accordingly in accordance with powers vested to the undersigned as per clause No. 13 of Industrial Employment (Standing Order) Act, 1946, the services of the said Sh. Ruldu Ram S/o Sh. Dass Mall Gang No. 1 FSD Dinanagar are hereby terminated *w.e.f.* 8.5.2009.

Thus, a perusal of the impugned order shows that workman provoked the handling workers on 21.4.2009 and stopped unloading/loading of wheat stocks and consequently a show cause notice was issued to him to which he did not file reply and his services were summarily terminated by invoking Clause 13 of the Industrial Employment (Standing Orders) Act, 1946. The said Clause read as follow:

Termination of Employment—(i) for terminating employment of a permanent workman, notice in writing shall be given either by the employer or the workmen one month's notice in the case of monthly rated workmen and two week's notice in the case of other workmen one month's or two weeks' pay, as the case may be, may be paid in lieu of notice.

(2) Subject to the provisions of the Industrial Disputes Act, 1947 (14 of 1947), no temporary workman whether monthly rated or weekly rated or piece rated, and no probationer or badly or fixed term employment workman as a result of non-renewal of contract of employment or on its expiry, shall be entitled to any notice or pay in lieu thereof, if his services are terminated, but the services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in paragraph 14.

(3) Where the employment of any workman is terminated, the wages earned by him and other dues, if any, shall be paid before the expiry of the second working day from the day on which his employment is terminated.

A perusal of the Clause shows that the employment of a permanent employee can be terminated by serving one month's notice but Clause 14 deals with the disciplinary action for misconduct and defines 'misconduct' and how the disciplinary proceedings are to be conducted and punishment is to be awarded and the relevant part of Clause 14 read as follows:—

Disciplinary action for misconduct—(1) A workman may be fined up to two per cent of his wages in a month for any of the following acts and omissions, namely:—

.....
.....

Note:—Specify the acts and omissions which the employer may notify with the previous approval.

.... ..

(2)

.... ..

(3) The following acts and omissions shall be treated as misconduct:—

(a) Wilful in-subordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;

(b) Theft, fraud, or dishonesty in connection with the employer's business or property;

(c) Willful damage to or loss of employer's goods or property;

(d) Taking or giving bribes or any illegal gratification;

(e) Habitual absence without leave or absence without leave for more than 10 days;

(f) Habitual late attendance;

(g) Habitual breach of any law applicable to the establishment;

(h) Riotous or disorderly behaviour during working hours at the establishments or any act subversive of discipline;

(i) Habitual negligence or neglect of work;

(j) Frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2 per cent of the wages in a month;

(k) Striking work or inciting others to strike work in contravention of the provisions of any law, or rule having the force of law.

(l) Sexual harassment which includes such unwelcome sexual determined behaviour (whether directly or by implication) as :

(i) physical contact and advances; or

(ii) demand or request for sexual favours; or

(iii) sexually coloured remarks; or

(iv) showing pornography; or

(v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.]

[(4) (a)

.. ..

.. ..

[(b)

.. ..

[(ba) In the inquiry, the workman shall be entitled to appear in person or to be represented by an office bearer of a trade union of which he is a member.

(bb) The proceedings of the inquiry, shall be recorded in Hindi or in English or the language of the State where the Industrial establishment is located, whichever is preferred by the workman.

(bc) The proceedings of the inquiry shall be completed within a period of three months: Provided that the period of three months may, for reasons to be recorded in writing, be extended for such further period as may be deemed necessary by the inquiry officer.

(c) If on the conclusion of the inquiry or as the case may be, of the criminal proceedings, the workman has been found guilty of the charges framed against him and it is considered, after giving the workman concerned a reasonable opportunity of making representation on the penalty proposed, that an order of dismissal or suspension or fine or stoppage of annual increment or reduction in rank would meet the ends of justice, the employer shall pass an order accordingly:

Provided that when an order of dismissal is passed under this Clause, the workman shall be deemed to have been absent from duty during the period of suspension and shall not be entitled to any remuneration for such period, and the subsistence allowance already paid to him shall not be recovered:

Provided

.. ..

.. ..

Provided

.. ..

.. ..

Provided

.. ..

(d)

.. ..

.. ..

(e)

.. ..

[(5)] In awarding punishment under this standing order, the [authority imposing the punishment] shall take into account the gravity of the misconduct, the

previous record, if any, of the workmen and any other extenuating or aggravating circumstances that may exist. A copy of the order passed by the [authority imposing the punishment] shall be supplied to the workman concerned.

- [(6) (a)]

 (b)
 (c)

Thus, Clause 14 of the Order deals with the disciplinary action to be taken on account of 'misconduct' after conducting of inquiry and after giving him reasonable opportunity of making representation on the proposed penalty. The allegations against the workman were of 'misconduct' for provoking the handling workers and stopping of unloading/loading of wheat stocks. In such a situation, the procedure to be followed was as required under Clause 14 of the order and was not to be taken under Clause 13 of the Order. The disciplinary authority *i.e.* Area Manager who passed the impugned order did not care at all to go through the clauses of the order carefully and instead of invoking Clause 14 of the orders which clearly provide for conduct of inquiry and giving an opportunity to the workman to make representation against the proposed penalty, the Area Manager simply choose an easy method to invoke Clause 13 of the order which is not applicable at all and in the circumstances, it cannot be said that the act of the Area Manager is bona fide. Since there were allegations of misconduct against the workman, inquiry was necessitated as per Clause 14 of the Act which has not been conducted in the present case before passing the impugned order and therefore the impugned order which is not passed, as per provisions of the law on which the respondent management itself relies is not sustainable.

That Sh. Dinesh Tripathi, appeared in the witness box on behalf of the management and has stated that other four persons were involved along with the workman. He has further deposed in cross-examination that the other four persons were reinstated in service. Thus, in not reinstating the workman along with the other four persons also shows the attitude of the disciplinary authority towards the workman and it is clear that the impugned order has been passed with *mala fide* intention which not only caused loss to the workman but also to the management itself.

In result, the reference is answered holding that termination of services of the workman is not legal and he is entitled to be reinstated in service within full back wages from the date of his termination. The respondent management shall reinstate the workman with one month and shall pay the arrear of the back wages to the workman within two months of the publication of the award failing which the workman shall be entitled to get interest at the rate of 6 per cent per annum on the amount from the date of award till realization. However, the management is at liberty

to recover the amount of arrears of back wages from the person who passed the impugned order as per law. Let hard and soft copy of the award be sent to the Central Government for information and further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 14 जुलाई, 2015

कांआ 1485.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ०सी०आई० के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायलय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 388/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/205/2002-आईआर(सी-2)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 14th July, 2015

S.O. 1485.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 388/2005 of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India and their workman, received by the Central Government on 14/07/2015.

[No.L-22012/205/2002-IR(C-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 388/2005

Registered on 19.8.2005

Sh. Virender Kumar, son of Sh. Mann Singh, resident of H.No. 21/3 Rajiv Colony, Kaithal Road, Karnal.

Petitioner

Versus

The District Manager, Food Corporation of India, District Karnal.

Respondents

Appearances

For the workman Sh. Jai Pal, Adv.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 15.6.2015

Central Government *vide* Notification No. L-22012/205/2002-IR(C-II) dated 4.8.2005, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section

(2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Food Corporation of India is terminating the services of Sh. Virender, S/o Sh. Mann Singh *w.e.f.* 1.7.1996 is legal and justified? If not, to what relief is the workman entitled?"

In response to the notice, the claimant appeared and submitted statement of claim pleading that he was appointed as Security Guard on daily wage basis on 16.2.1995 by the respondent management and he continued as such till September, 1998 when his services were terminated without paying him retrenchment compensation or service of notice. It is further pleaded that the persons junior to him were retained in service and even fresh appointments were made. As such the termination of his services is illegal and he be reinstated in service with full back wages.

Management *i.e.* FCI filed written statement controverting the averments and pleaded that workman was never employed by it. Management has entered into an agreement with M/s. Ex-servicemen Security Services, Kurukshetra for deployment of watch and ward staff for the protection of foodgrains from time to time as and when required and the workman was appointed by the said agency. That the payment was used to be made to the contractor who in turn used to make the same to its employees. That no appointment letter or termination letter was issued to the workman. The management has no administrative or disciplinary control over him. Since there is no relationship of employer and employee between the parties, the workman is not entitled to any relief.

Parties were given opportunity to lead their evidence.

In support of its case, workman appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition. He has also examined Sh. Parveen Kumar who was the contractor of the management who did not say anything in favour of the workman. He has deposed in his affidavit that management has given contract to Ex-servicemen Security Services for supplying manpower and an agreement dated 24.2.1986 was executed that they used to supply security guards to the management and had control over them.

On the other hand the management has examined Sh. Silky Sona Singla who filed his affidavit reiterating the averments as contained in the written statement.

I have heard Sh. Jaipal, counsel for the workman and Sh. N.K. Zakhmi, counsel for the management.

It was vehemently contended by the learned counsel for the workman that workman continuously worked with the management from February, 1995 to September, 1998 and his services were terminated without payment of any retrenchment compensation and therefore the termination

order is illegal. He has further contended that the persons junior to him were retained in service and even fresh appointments were made which are in violation of the provisions of the Act and workman is entitled to be reinstated in service.

I have considered the contention of the learned counsel.

Workman pleaded that he was appointed as Security Guard on daily wage basis by the management in February, 1995 and his services were terminated in September, 1998. The respondent management has pleaded that workman was appointed by the contractor *i.e.* M/s. Ex-servicemen Security Services and as such, the management admits that the workman worked with it for the period in question but as a man of the Company to whom contract was given for deploying watch and ward staff. In these circumstances, it was for the management to prove that it has given contract to M/s. Ex-servicemen Security Services and the workman was on its rolls but the management did not lead any cogent evidence in this respect. However the workman himself has examined Parveen Kumar who is from the said agency and deposed that the management has given a contract in the year 1986 which was renewed upto the year 1999. Though he did not place on record any contract entered into between the parties after 1986 and again he did not state that the workman was its employee, but still the statement of the workman himself prove that he was not employed by the management but he is a man of the said agency.

The workman has specifically admitted that he was deputed for duty by the Ex-servicemen Security Services to different depots of the managements. That the said agency used to record his attendance and was deducting his PF from his wages. It was the Ex-servicemen Security Services who deputed him for duty. Thus, his statement clinches the issue that it was M/s. Ex-servicemen Security Services who was deputing him to different depots and was marking his attendance as well was deducting his PF and being so, it cannot be said that he was the employee of the management and rather his own cross-examination proves that he was engaged by M/s. Ex-servicemen Security Services. There is nothing on the file that he ever received any wages from the respondent management and no appointment letter has been placed on the file and these facts further disapprove the case of the workman that he was ever engaged by the respondent management.

In result, workman has failed to prove that he was an employee of the management or was ever engaged by it. When it is so, it cannot be said that his services were terminated by the management and he is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 14 जुलाई, 2015

का०आ० 1486.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी०सी०आई० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध 1 में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 21/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/07/2015 को प्राप्त हुआ था।

[सं० एल-42012/165/2004-आईआर (सीएम-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 14th July, 2015

S.O. 1486.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Broadcasting Corporation of India, and their workmen, received by the Central Government on 14/07/2015.

[No. L-42012/165/2004-IR(CM-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, LUCKNOW

PRESENT

RAKESH KUMAR, Presiding Officer

I.D. No. 21/2005

Ref. No. L-42012/165/2004-IR(CM-II) dated 29.06.2005

Sri Ramesh Chandra Sanwal,

S/o C.D. Sanwal

Flat No. 566/28/07, Jaiprakash Nagar Lucknow

AND

1. The Director
Broadcasting Corporation of India,
Doordarshan Kendra
Lucknow
2. The Managing Director
Broadcasting Corpn. of India
Directorate of Doordarshan
New Delhi

AWARD

1. By order No. L-42012/165/2004-IR(CM-II) dated 29.06.2005 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred

this industrial dispute between Sri Ramesh Chandra Sanwal S/o Sri C.D. Sanwal Flat No. 566/28/07, Jaiprakash Nagar, Lucknow and the Director, Broadcasting Corporation of India, Doordarshan Kendra, Lucknow and the Managing Director, Broadcasting Corporation of India, Director of Doordarshan, New Delhi for adjudication.

The reference under adjudication is:

'KYA PRABANDHAN, DOORDARSHAN KENDRA, LUCKNOW/DELHI DWARA SHRI RAMESH CHANDRA SANWAL PUTRA SHRI C.D. SANWAL AKASMIK PRODUCTION SAHAYAK KO SEWA MAIN NIYAMITIKARAN NA KAR KE DINANK 31.07.2001 KO NAUKARI SE NIKAL DIYA JANA UCHIT TATHA NAYAYSANGATH HAI? YADINAH, TO KARMKAAR KIS ANUTOSH KO PANDE KA ADHIKAARI HAI?'

3. This I.D. was adjudicated by my learned predecessor Hon'ble Dr. Manju Nigam *vide* award dated 17.09.2013 which was later on notified by Govt. of India on 17.10.2013. The workman being aggrieved from the said award preferred petition Misc. No. S 8315/ 2014 before Hon'ble High Court of judicature Allahabad, Lucknow bench. Hon'ble High Court while partly allowing the petition, made the following observations;

".....In view of the aforesaid pronouncement as also the distinguishing feature pointed out by the learned counsel for the petitioner so far as the applicability of the judgment in **Surendranagar District Panchayat v. Dahyabhai Amarsinh** relied upon by the Tribunal and reported in 2005 AIR SCW 5562, in my view, the findings of Tribunal with respect to the validity of the termination of the service of the petitioner cannot be sustained as for the reason mentioned in paragraph 15 of the above mentioned judgment, the documentary evidence being available with the employer, who should have produced the same to rebut the assertions of the petitioner that he had worked 240 days in a calendar year so as to attract the provisions of Section 25(f) of the Act, therefore, the findings of the Tribunal in this regard in the impugned award are set aside and the matter is remanded back to the Tribunal for consideration of the validity of the termination of service of the petitioner in terms of the reference made to it keeping in mind the observations made hereinabove and the pronouncement of the Supreme Court reported in 2010 AIR SCW 542."

4. Thereafter notice was issued to the opposite party/ management through registered post and specific direction was given to avoid undue delay. Several adjournments were sought. Later on, as per the direction of Hon'ble High Court, the management produced cheque issue register

before this Tribunal, documents produced were examined by learned AR for both the parties. Application W-62 was moved by the workman seeking directions for the opposite party to produce the original records including Q-sheet, muster roll, attendance sheet, gate register, studio pass register for the said period. The learned AR for the opposite party filed application M-61, along with objection, affidavit, including thereby two annexures.

5. As per the claim statement A1-3, the applicant has asserted that conciliation proceedings were conducted before ALC (C), Lucknow. It has been asserted by the applicant that he was engaged by the opposite party on 31.12.1985 as Casual Production Asstt. In Group "C" against permanent post. As per the ruling of the Hon'ble Supreme Court the opposite party/employer is covered under the definition of industry and the applicant is workman under the I.D. Act.

6. It has been stated in the claim statement that the applicant was working up till 30.07.2001 with a break; under Section 25B of the I.D. Act the broken period of the workman is to be counted for his service by the employer, it has also been emphasized that the adhoc or casual employee can not be substituted by a adhoc/casual employee. The opposite Party No. 1 & 4 *vide* scheme dated 09.06.1992, were required to maintain the seniority list of the workman but they have failed to maintain the same. Scheme dated 17.03.1994 and 05.07.1994 were also not followed by the opposite party, under Section 25D of the I.D. Act the opposite party was duty bound to maintain the muster roll of the workman, opposite party did not maintain the seniority list of the workmen, including the applicant.

7. The applicant has stated that earlier he has filed OA No. 619/1994 before Hon'ble CAT, Lucknow against the employer for regularization in pursuant to the order dated 05.07.1994 passed by the Hon'ble CAT, another order dated 28.01.1993 and in furtherance of the scheme dated 17.03.1994 and 05.07.1991. O.A. No. 619/94 was dismissed in default for non prosecution, after an order dated 24.08.2001 passed by the Hon'ble CAT, recall application was moved which was rejected on 10.03.1994.

8. It has also been asserted in the claim statement that Union of India and others filed a case against Rakesh Kumar Kukreti, and other in which the applicant workman was also a respondent in the case which was filed by Union of India before Hon'ble Supreme Court of India in Civil Appeal No. 1122-1136 of 1999. It is pleaded that the employers have not followed the scheme dated 09.06.1992 and modified dated 17.03.1994 & 05.07.1994 with respect to this applicant workman. In spite of the schemes the employer No. 1, 2, 3, 4 & 5 have regularized the other junior workmen *i.e.*, Sri Umesh Chandra Mishra, Mohd. Nasir, Rakesh Kumar Kukreti, Ramesh Chandra Shukla, Mueen Ansari, Sishir Kumar

Singh, Atul Mishra, Smt. Rekha Gupta, Smt. Seem Kazmi, Ankali Dixit etc.

9. In accordance with the schemes dated 09.06.92, 17.3.94 and 5.7.1994, the employer, No. 1, 2, 3, 4 & 5 had to regularize the applicant workman on the post of Production Assistant but for the ulterior motives they have not regularized the applicant workman and they have terminated/dismissed/discharged the services of the applicant in spite of demands of regularization. The applicant is workman under section 2(s) of the I.D. Act. 1947 and under Section 25-J of the I.D. Act. Employers have not regularized the applicant. It has been mentioned in the claim statement that the employer had stated that the applicant was found overaged in terms of the schemes for regularization dated 09.06.1992, it was also mentioned in the scheme dated 09.06.1992 in para 3 that the seniority list will be determined from the date of initial engagement by Doordarshan Kendra. No enquiry was initiated against the workman without any fault of the workman, he was not regularized by the opposite party, directions of Hon'ble Supreme Court and Hon'ble High Court were ignored. It has further been stated by the workman that at the time of initial engagement he was in prescribed age limit and other junior persons had been regularized by the opposite party in violation of Article 14 & 16 of Constitution of India. The workman has prayed to declare that the opposite party had followed unfair labour practice on 31.07.2001 while ignoring the applicant, and the opposite party had wrongly dismissed him, and he is senior to the junior persons.

10. The opposite party has filed comprehensive written statement A-17, the workman's claim has been denied by the opposite party, and it has been specifically pleaded that the applicant was never appointed as casual artist or adhoc or otherwise, no appointment letter was ever issued to the applicant, hence the question to termination or retrenchment of his services *w.e.f.* 31.07.2001 does not arise at all.

11. The opposite party has emphasized that the applicant was engaged for short period to perform casual nature of work purely taking into account the requirement of programme production, for not more than 10 days in a month. It has also been pleaded by the management that the direction given in the regularization scheme dated 09.06.1992, modified scheme dated 17.03.1994 and 05.07.1994 were followed and the applicant's case was considered but he was not found eligible being over age as per the provision of scheme dated 09.06.1992, so the applicant could not be regularized by the opposite party. The opposite party has also mentioned that other persons who were considered by the management, were regularized in pursuance of the direction given in the scheme dated 09.06.1992 and 17.03.1994. The management has prayed to reject the claim of the workman since it lacks merit. It has

also been pleaded by the management that the regularization cases of casual artists in Doordarshan Kendra were being strictly dealt with in the light of the regularization scheme, upheld by Hon'ble Supreme Court of India in several cases.

12. Rejoinder A1-20 has been filed by the workman, denying the main allegation levelled by the opposite party. Pleas taken in the claim statement have been reiterated in the rejoinder. The workman has further asserted in the rejoinder that his date of birth is 12.11.1956 as per his High School certificate, while the age limit for the Production Asstt, as per rules is 21-30 years. It has also been emphasized that the initial date of engagement and date of birth of Smt. Dixit was 12.02.1991 and 26.07.1961 respectively. She was considered by the management for regularization in terms of the scheme dt. 9.06.1992, in furtherance of the direction dated 08.11.2001 given by Hon'ble CAT, Lucknow in O.A. No. 500/95 and she was given age-relaxation of one year. The workman has earlier filed document C-7 to 7/124 and C-8.

13. The management along with written statement has filed annexures A-17/1—A17/6. The applicant has further filed paper No. 20/6/ to 20/34. Annexure C-27 to C-30 has also been filed by the applicant. Paper No. C-32-32/16 have been filed later on before my learned predecessor along with application C-34 annexure containing there in certain rulings of Hon'ble High Court have also been filed.

14. The opposite party along with its affidavit have filed annexures 418 to 41/21 along with rulings of Hon'ble Supreme Court. Further the opposite party annexed paper no. 39/8-39/20 with affidavit M-39.

15. The workman has examined himself whereas the opposite party has examined Sri G.P. Pandey in support of their respective pleadings. The learned AR of both the parties cross examined the witness of each other. Arguments of learned ARs of both the parties have been heard at length and I have gone through the entire evidence available on record, thoroughly alongwith original documents produced by the opposite party before me.

16. Learned AR for the workman during the course of arguments objected that the requisite document such as Q-sheet, muster roll, attendance sheet, gate register and Studio pass register have not been produced by the opposite party. This argument was strongly opposed by the learned AR of the opposite party. The opposite party submits that records available in the department and required for calculating number of relevant working days have been produced before the Tribunal in compliance of the order of Hon'ble High Court.

17. It is an admitted fact that the applicant was duly paid for the work done by him. Therefore, the register where in

the details of payment are mentioned, is very crucial. It has also been pointed out before me that the workman has himself, while receiving the payment, has admitted the number of working days on the concerned document. The burden lies on the workman to prove that he had worked 240 days in the relevant calendar year so as to give him the benefit of Section 25F of the I.D. Act. No doubt, the opposite party is duty bound to submit before this court all the relevant documents without concealing any material fact. This Tribunal has given specific direction to the opposite party to submit the relevant register/document so as to ensure the compliance of the order given by Hon'ble High Court, consequently facilitating the endeavour to compute the actual number of working days in the relevant calendar year. There is no reason to doubt the sincerity and integrity of the management in ascertaining the fact that the opposite party has come before this Tribunal with clean hands and has submitted the appropriate/proper documents before this Tribunal/court as desired by Hon'ble High Court.

18. Learned AR for the workman has relief upon the following rulings;

1. (1998) 8 SCC Director, Doordarshan V/s S. Kuttan Pillai & others page 736.
2. AIR 1976 Indian Standards Institution v/s The Management of Indian Standards Institution page 145 Hon'ble Supreme Court of India.
3. 2003 LAB I.C. A.Achutha v/s Sri Rama Sahakara page 3965 Hon'ble Karnataka High Court.
4. (2000) 3 UPLBEC Rakesh Kumar Pamar v/s. State of U.P. page 2121 Hon'ble Allahabad High Court.
5. 1976 LAB I.C. Uttar Bharat Wollen Mill v/s Shyam Lal Sharma page 102 Hon'ble Allahabad High Court.
6. 2004 (100) FLR Andhra Bank v/s B. Satyanarayana & other page 1011 Hon'ble Supreme Court of India.
7. 2001 (88) Devdass. Amin v/s State of Maharashtra & others. Page 206 Hon'ble Bombay High Court.
8. 2003, LAB I.C. M/s BHEL v/s State of U.P. & others page 2630 Hon'ble High Court of Patna.
9. 1093 Bihar Journal Vinaya Nath Narain Sinha & others v/s Bihar Journals page 633 Hon'ble Patna High Court.
10. 1985 LAB I.C. M.P. Irrigation Karmchari Sangh v/s State of Madhya Pradesh page 392 Hon'ble Supreme Court of India.
11. 1983 LAB I.C. Y.V. Ranghaya v/s State of Andhra Pradesh page 1240 Hon'ble Supreme Court of India.

12. 2006 AIR, SCW, State of Haryana v/s. Dilbagh Singh page 5435 Hon'ble Supreme Court of India.
13. 2007 LAB I.C. I.C. Bhaskar v/s. A.K. Bhattacharya 417 Hon'ble Calcutta High Court.
14. 2007 LAB. I.C. Central Coperative Bank Ltd. V/s. State of Rajasthan & others page 419 Hon'ble Rajasthan High Court.

19. The learned AR for the management asserts that most of the aforesaid rulings of Hon'ble Courts do not apply to the facts and circumstances of the present dispute, and the workman is not entitled to any relief whatsoever claimed, in the light of the principle laid down by Hon'ble Supreme Court in 2005, AIR, SCW, 5562 Surendra Nagar District Panchyat v/s. Daya Bhai Amar Bhai, 2004 AIR, SCW 5184 Municipal Corporation, Faridabad v/s. Sri Niwas & others, AIR, SCW Director, Fishries Terminal Division v/s. Bhiku Bhai Meghaji Bhai Chavda page 542.

20. I have given my thoughtful consideration to the rival submissions of the learned authorized representatives of the parties and perused the entire documentary and oral evidence in light of orders of Hon'ble High Court dated 06.01.2015.

21. Hon'ble High Court *vide* their order dated 06.01.2015 remanded back the matter to this Tribunal for consideration of the validity of termination of services of the workman in terms of reference made to it. The workman in its statement of claim has very specifically submitted that he worked with the management for more than 240 days on the date of termination *i.e.* 31.07.2001 and the management of Doordarshan terminated his services without complying with the mandatory provisions of Section 25 F of the Industrial Disputes Act, 1947.

Hon'ble Supreme Court in number of cases has observed that in such cases, the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service of 240 days for the purpose of compliance of section 25-F of the Industrial Disputes Act, 1947, therefore, the management of the Doordarshan was directed to file the relevant documents in support of working days of the workman. The management of Doordarshan has filed numerous documents in support of working days of the workman with it, including paper No. 67/9 & 67/10, the summary of amount paid to the workman against total number of days of working in each month, in different years of engagement.

22. Now to check the validity of the termination of the workman by the opposite parties *w.e.f.* 31.07.2001 in terms of provisions contained in Section 25F of the Act, this Tribunal has to scrutinize as to whether the workman worked for 240 days in a year preceding the date of termination *i.e.* from 01.08.2000 to 30.07.2001? Admittedly,

the workman had been engaged as casual artist, Production Assistant for fixed period of time, in each month; and from perusal of details provided in paper No. 67/9 & 67/10 it is evident that the workman worked for 10 days at most in a month during the period of his engagement. Placing reliance over the documents filed by the opposite party, the authorized representative of the management has submitted that since the workman has worked for 110 days only during period 01.08.2000 to 30.07.2001, therefore there was no need of compliance of provisions contained in Section 25 F of the Act.

Per contra, the authorized representative of the workman has submitted that the actual period of engagement was 10 days in a month but workman used to work for whole month; accordingly, his working cannot be taken for 10 days only. He has pointed out towards provisions contained in the O.M. dated 17.03.1994, which provides that the casual staff artists are being engaged for 10 days or have been working on 2-3 assignments in a month on a consolidated amount of Rs. 40-500 per assignment, but in actual practice, they have been working throughout month. Therefore, in view of above O.M., the working period of the workman comes to be more than 240 days during period 01.08.2000 to 30.07.2001; hence he is entitled for the protection of provisions contained in Section 25 F of the Act.

23. Having gone thorough contentions of the learned authorized representatives of the parties and documentary evidence relief upon, it would be prudent to quote the relevant portions of O.M. dated 17.03.1994 for correct calculation of the working period of the workman with the opposite party, the same reads as under:

"No. 2(J)/ S.1

Dated: 17.03.1994

Office Memorandum

Sub: Scheme for regularization of Casual Artists in Doordarshan

The undersigned is directed to invite attention to DG:D O.M. of even number dated 09.06.92 on the above subject, with which a copy of the scheme for regularization of Casual Artists of Doordarshan was circulated. According to condition in para 2 of the scheme, the number of days for the purpose of regularization is to be computed on the basis of actual working days in the Muster Rolls or Attendance Sheets or 'Q' sheets.

2. It has been brought to the notice of this Directorate that although these Casual Staff Artists were engaged for 10 days or have been working on 2-3 assignments in a month on a consolidated amount of Rs. 400-500 per assignment, but in actual practice, they have been working throughout the month. This aspect has been examined by the Directorate in consultation with Ministry of I&B and procedure to be followed for arriving at the number of days of casual working will be as under.

3. The number of days for the purpose of regularization will be computed on a the basis of actual wages given to the prevalent in the State during the relevant time of working. For example, if a Casual Staff Artist has been paid an aggregate sum of Rs. 1500 in a month whether for working for 10 days or for 2-3 assignments in a month and the minimum wage prevalent in the State at the relevant time was Rs. 50, the staff artists would be deemed to have worked fore 30 days in a month (*i.e.* Rs. 1500 divided by 50) subject to the condition that the days so computed would not exceed 25 days in a month."

A bare perusal of the clarifications provided at para 2 & 3 of the O.M. dated 17.03.1994, it becomes crystal clear that for proper calculation of working period of a casual artist there were two requirements, firstly the total amount paid to him in a month and second, the minimum wages prevalent in the State at the relevant period of time. The details of payment made and number of working from August, 2000 to July, 2001, as per details provided by the management of Doordearshan in paper No. 67/9 & 67/10 is a under:

Sl. No.	Month	Amount (Rs.)	Actual days (for which payment was made)
1.	Aug., 2000	3700	10
2.	Sept., 2000	3700	10
3.	Oct., 2000	3700	10
4.	Nov., 2000	3700	10
5.	Dec., 2000	3700	10
6.	Jan., 2001	3700	10
7.	Feb., 2001	3700	10
8.	Mar., 2001	3700	10
9.	May, 2001	3700	10
10.	June, 2001	3700	10
11.	July, 2001	3700	10

In the instant case, although the management of Doordarshan has provided the details of consolidated payment made to the workman in a month for the period from 01.08.2000 to 30.07.2001; but has not provided the rates of minimum wages prevalent in the State at that particular period of time. However, from perusal of the details of payment and number of days of working, as provided in paper No. 67/10 it comes out that the workman had been paid Rs. 3700/- in each month from August, 2000 to July, 2001, except April, 2001, for 10 days of working in each month, thus it is apparent the workman had been paid for Rs. 370/- each day in the year 2000-2001, which seems too much, therefor, it could be well presumed that the minimum rate of wages might have been less than 370/- and in the absence of nay evidence from the management in this ragard it can be taken into account that the workman had worked for full number of days in month during period

from 01.08.2000 to 30.07.2001 and he can be given benefit of 25 days of working in each month for the period from August, 2000 to July, 2001, except April, 2001 as per provisions contained in O.M. dated 17.03.1994. Hence, it could be well presumed that the workman worked for 275 days during the period from 01.08.2000 to 30.07.2001, therefore the management of the Doordarshan was duty bound to comply with the mandatory provisions of Section 25 F of the Industrial Disputes Act, 1947.

24. Now, it is to be considered as to whether the workman is entitled for reinstatement. From the evidence produced by the workman it is not proved that his appointment was as a regular employee. The workman in para 10 (1) of his statement of claim has stated that he was engaged by the employers on 31.12.1985 as Casual Production Assistant. Admittedly, the services of the workman were terminated on 31.07.2001. In between *Haryana Roadways vs. Rudhan Singh* (2005) 5 SCC 591; 2005 SCC (L&S) 716 Hon'ble Apex Court while considering the question regarding award of back wages has observed:

"There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of section 25F of the Act, entire back wages should be awarded..... However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period *i.e.* from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which required to be taken into consideration, is the nature of employment. A regular service of permanent character cannot be compared to short of intermittent daily wage employment though it may be for 240 days in a calander year."

25. In *Deepak Ganpat Tari vs. N.E. Theater Pvt. Ltd.* 2008 (119) FLR 877 Hon'ble Bomaby High Court relying on the Hon'ble Apex Court's judgment in *Govt. of Andhra Prades & other vs. K Brahmandandam* 2008 (117) FLR 1086 (SC) Telephone DM *vs. Keshab Deb* 2008 (118) FLR 376 (SC) JDA *vs. Ram Sahai* 2006 (111) FLR 1178 (SC), while awarding compensation of Rs. 1,50,000/- to the concerned workman considering his daily wages as Rs. 45/- in view of the fact that the workman had put in about 3 years of service, has observed as under:

"It is apparent that termination of services of a daily wager does not amount of retrenchment and for violation of section 25 F in such circumstances, the employee cannot be given benefit of reinstatement with continuity and back wages. Hon'ble Apex Court has hold that in such circumstance employee is entitled to benefit of compensation only."

26. In *Jagbir Singh vs. Haryana State Agriculture Mktg. Board* (2009) 15 SCC 327 : (2010) 1 SCC (L&S) 545: Senior

Superintendent Telegraph (Traffic), Bhopal vs. Santosh Kumar Seal and others (2010) 2 SSC (L&S) 309 Hon'ble Apex Court has observed as under:

"However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wages has not been found to be proper by this Court and instead compensation has been awarded."

27. Therefore, in the light of principle laid down in aforementioned case laws, it would not be just and proper to direct that the workman be reinstated in service. The ends of justice would meet by paying compensation to the workman instead in place of relief of reinstatement in service.

28. Having regards to these facts that the workman has worked as casual artist for fixed term from year 1985 to 2001 and he was getting Rs. 3700/- per month at the time of his alleged termination and keeping in view the entire facts of the case and the law, the interest of justice would be subserved, if management is directed to pay lump sum amount of compensation only.

29. Accordingly, the management is directed to pay a sum of Rs. 5,00,000/- (Rupees Five Lakhs only) to the workman as compensation for termination of his services in violation of section 25 F of the I.D. Act. The said amount shall be paid to the workman within 08 weeks of publication of the award, failing which; the same shall carry interest @ 8% per annum.

30. The reference is answered accordingly.

27. Award as above.

LUCKNOW

29th June, 2015.

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 15 जुलाई, 2015

का.आ. 1487.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार कमिश्नर ऑफ सेंट्रल एक्साइज, कोइम्बटोर के प्रबंधन के संबंध में नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं.

76/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/07/2015 को प्राप्त हुआ था।

[सं. एल-42012/104/2014 आई आर(डीयू)]
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 15th July, 2015

S.O. 1487.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 76/2014) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Commissioner of Central Excise, Coimbatore and their workman, which was received by the Central Government on 14/07/2015.

[No. L-42012/104/2014-IR(DU)]
P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Monday, the 6th July, 2015

Present: K.P. PRASANNA KUMARI
Presiding Officer
Industrial Dispute No. 76/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Central Excise and Customs and their workman)

BETWEEN

Sri V. Sivaraj : 1st Party/Petitioner

AND

The Addl. Commissioner of Central Excise
O/o the Commissioner of Central Excise
6/7 ATD Street, Race Course Road
Coimbatore-18 2nd Party/Respondent

Appearance:

For the 1st Party/Petitioner : M/s C.D. Sugumar & T. Ramkumar, Advocates

For the 2nd Party/Respondent: M/s A.P. Srinivas, Senior Standing Counsel

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42012/104/2014-IR (DU) dated 08.08.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

"Whether the action of Commissioner of Central Excise and Customs in terminating the services of Sri V. Sivarajan is legal and justified? If not, to what relief, the petitioner is entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 76/2014 and issued notices to both side. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petition had studied up to 9th standard. He was appointed as contingency worker in the Respondent department on 20.11.1998. Petitioner is a workman as defined under Section-2(s) of the ID Act. The duty of the petitioner was to clean the Cargo Complex premises in Coimbatore Airport. He had attended duties of Office Attended also. Initially he was paid at the rate of Rs. 1,000/- per month. Later his salary was raised to Rs. 2,000/- per month. The petitioner had been continuing as contingent employee in the Respondent establishment for years together. He had put in more than 480 days of service within 24 calendar months. The Respondent has orally terminated the petitioner from service on 13.01.2007. Thereafter he had filed application before the Central Administrative Tribunal (CAT), Chennai Bench seeking direction to be reinstated in service. On dismissal of the OA by the Tribunal the petitioner had filed Writ Petition before the Hon'ble High Court of Madras and the High Court had set aside the order of Central Administrative Tribunal and allowed the petitioner to approach the Central Government Industrial Tribunal by raising Industrial Dispute. The dispute is raises accordingly. The petitioner is entitled to be reinstated in service with back wages, continuity of service and other monetary benefits. The Respondent may be directed to reinstate the petitioner in service, regularize his services and absorb him in the regular establishment.

4. The Respondent has filed Counter Statement contending as below:

The Central Excise Commissionerate is not an industrial establishment as defined in S.2(ka) of the ID Act. As such the issue taken up by the petitioner is not an industrial dispute. The petitioner was never in the rolls of the Respondent department. He was engaged for sundry works as a purely private arrangement by the staff of various agencies working in the Airport to buy coffee, tea and to do errands for the staff. The petitioner is not entitled to reinstatement or regularization as claimed.

5. The evidence in the case consists of oral evidence of the petitioner examined as WW1 and MW1 and also documents marked as Ext. W1 to Ext. W15.

6. The points for consideration are:

(i) Whether the petitioner is entitled to be reinstated in the service of the Respondent?

(ii) Whether the petitioner is entitled to any other relief?

The Points

7. The petitioner has claimed that he was appointed in the Respondent department as a contingent worker from November, 1998 and continued to work so until 13.01.2007 on which date he was orally terminated from service without any justification. The Schedule of reference is one challenging the terminating of the service of the petitioner only. However, in the Claim Statement the petitioner has claimed not only reinstatement in service but also regularization of his service and also absorption in the service of the Respondent.

8. The petitioner has given evidence as WW1. To substantiate his case he has reiterated his case in the Claim Statement in the Proof Affidavit also. He has stated during his cross-examination that he had worked for 90 days in the Respondent in 1997, that he was re-employed in 1998 and had continued to work till 13.01.2007 on which date he was orally terminated from service. MW1 Administrative Officer of the Respondent has stated in the Proof Affidavit that the petitioner was never appointed as a contingent worker on 20.11.1998 or any other date. According to him the petitioner was never issued with any appointment letter. According to him the petitioner was engaged by some staff of Air Cargo and Airport Customs Staff for buying tea and coffee and they had been paying him from their pocket. According to him the petitioner was never on the rolls of the Respondent department. MW1 has further stated in his affidavit that the Respondent is not an industry at all and therefore the dispute is not an industrial dispute at all.

9. The contention of the Respondent that the dispute is not maintainable since the Respondent is not an industrial establishment cannot be accepted. The case of the petitioner is that he was working as a contingent worker only. So he comes under the definition of workman under S.2(s) of the ID Act.

10. The real question to be considered is whether the petitioner was actually working under the Respondent from November, 1998 and continued to do so until January, 2007 as claimed by him. Apart from the oral version of the petitioner there is no other evidence available to prove that he was actually employed by the Respondent department. On the

other hand, the documents produced by the petitioner himself reveal that he was engaged by some of the staff in their individual capacity. Ext. W3 is said to be a letter written by the Superintendent of Customs, Air Cargo Complex, Coimbatore to the Joint Commissioner (P&V), HQ's office recommending that the petitioner may be appointed as a contingent employee for Air Cargo complex and Airport. From the same letter it is seen that the petitioner was doing some miscellaneous work on daily wage basis and wages were borne by the Officers of Air Cargo Complex, Airport. So it is clear from the very document that he was never employed by the Respondent department. By Ext. W3 his name was suggested to be engaged as contingent employee. Ext. W3 letter is on 03.01.2005. So it is clear that the claim of the petitioner that he was directly employed by the Respondent on 20.11.1998 is not correct. Ext. W5 is another letter written by Deputy Commissioner on 26.08.2005. again requesting to provide regular services of a contingent employee. In this letter also it is stated that the petitioner was paid a paltry amount and this expense was borne by the Customs Officers posted at the Cargo Complex and Airport. Considering the personal services of the petitioner, the Dy. Commissioner has recommended him to be posted as contingent worker. Thus it is clear that the petitioner was never employed by the Respondent department directly even as a worker on daily wage basis. This is why the Central Administrative Tribunal has dismissed his request for reinstatement of service of the Respondent as seen from Ext. W13 order. The order was set aside by the order in the Writ Petition before the High Court of Madras only because the petitioner admitted before the High Court that CAT was not the forum for adjudication of this dispute. It is after this the petitioner has raised the dispute and the matter was referred to this Tribunal.

11. The material available are not sufficient to show that the petitioners worked with the Respondent department as a direct employee at any time. So there is no question of his reinstatement in service, not to say about regularization and absorption. The petitioner is not entitled to any relief.

In view of my discussion above, the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri V. Sivarajan

For the 2nd Party/ Management : MW1, Sri Sivaraman

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
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Ext. W1	—	Transfer Certificate
Ext. W2	—	Commendation letter
Ext. W3	03.01.2005	Proceeding of the 2nd Respondent
Ext. W4	24.08.2005	Certificate
Ext. W5	26.08.2005	Letter to 1st Respondent
Ext. W6	27.10.2005	Conduct Certificate
Ext. W7	10.07.2006	Request for renewal of daily permit
Ext. W8	12.07.2006	Conduct Certificate
Ext. W9	12.01.2007	Daily permit
Ext. W10	21.11.2007	Application form
Ext. W11	19.03.2008	Proceedings of the Asstt. Labour Commissioner
Ext. W12	Aug. 2009	Reply filed by the Respondent
Ext. W13	10.03.2010	Order in OA No. 749/2008 (Impugned Order)
Ext. W14	18.08.2011	Order in WP 19121 of 2011
Ext. W15	—	Conciliation proceedings

On the Management's side

Ex.No.	Date	Description
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Nil

नई दिल्ली, 15 जुलाई, 2015

का०आ० 1488.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आईजीसीएआर एवं दूसरों के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं० 75/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/07/2015 को प्राप्त हुआ था।

[सं० एल-42012/101/2015-आई आर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 15th July, 2015

S.O. 1488.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 75/2015) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the IGCAR & others and their workman, which was received by the Government on 14/07/2015.

[No. L-42012/101/2015-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Tuesday, the 7th July, 2015

Present K.P. PRASANNA KUMARI
Presiding Officer

Industrial Dispute No. 75/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of IGCAR, Kalpakkam and Another and their workman)

BETWEEN

Sri K. Sadasivan 1st Party/Petitioner

AND

1. The Director 2nd Party/Respondent
IGCAR (Principal Employer)
Kalpakkam-603102
2. Mr. Marudhavanan, Manager
Manager M/s Voltas Ltd.,
No. 624, Anna Salai
Chennai-600018 : 2nd Party/2nd Respondent

Appearance:

For the 1st Party/Petitioner : Absent

For the 2nd Party/1st Management : Sri B. Sekar,
Advocate

For the 2nd Party/2nd Management : Sri T.R.
Sathiyamohan,
Advocate

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-42012/101/2015-IR (DU) dated 26.05.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

"Whether the action of the management of M/s Voltas Limited in terminating the services of Sri K. Sadasivan *w.e.f.* 29.08.2012 is illegal, arbitrary and violation of the Section-25 F of ID Act, 1947? If yes, to what relief the workman is entitled to?"

2. On receipt of the Industrial Dispute this tribunal has numbered it as ID 75/2015 and issued notices to both sides. The Respondents have entered appearance and filed Vakalat.

3. Though the petitioner has received notice he has remained absent. He seems to be not interested in pursuing the case. So the ID is only to be closed.

The reference is closed and is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer.

Witnesses Examined

For the 1st Party/Petitioner : None

For the 2nd Party/1st Management : None

For the 2nd Party/2nd Management : None

Documents Marked: On the petitioner's side

Ex. No.	Date	Description
	Nil	

On the Management's side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 15 जुलाई, 2015

का०आ० 1489.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बाप/भेल राणिपेट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 46/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/7/2015 को प्राप्त हुआ था।

[सं एल-42011/30/2015-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 15th July, 2015

S.O. 1489.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**I.D. No 46/2015**) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the **BAP/BHEL, Ranipet** and their workmen, which was received by the Central Government on **14/07/2015**.

[No. L-42011/30/2015-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 7th July, 2015

Present : K.P. PRASANNA KUMARI
Presiding Officer

Industrial Dispute No. 46/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Doss & Brothers and Another and their workman)

BETWEEN

The President 1st Party/Petitioner Union
Anaithu Oppandha Thozhilalar Sangam
C/o BAP, BHEL, Ranipet
Tamil Nadu-632406

AND

1. The General Manager 2nd Party/1st Respondent
BAP/BHEL, Ranipet
Tamil Nadu-632406

2. The Proprietor : 2nd Party/2nd Respondent
Doss Brothers Abi Construction
Cuddalore to Chidambaram Main Road
Alapakkam & Post, Cuddalore Taluk
Distt. Cuddalore
Cuddalore-608801

Appearance

For the 1st Party/Petitioner : In Person

For the 2nd Party/1st Respondent : Sri F.B. Benjamin George,
Advocate

For the 2nd Party/2nd Respondent : Set Ex-Parte

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/30/2015-IR (DU) dated 20.04.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

"Whether the action of Management of DASS & Brothers, the Contractor of M/s BHEL/Ranipet regarding the termination of the service of Sri K. Murugadoss is justifiable or not? If not, to what relief the workman is entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 46/2015 and issued notices to both sides. The petitioner has appeared in person on the second hearing date and had sought time for filing Claim Statement. The case has been postponed on two more occasions for Claim Statement. The petitioner was absented himself again. He has not filed any Claim Statement also in spite of repeated postings given. He seems to be not interested in pursuing the case. In the absence of any material the ID is to be answered against the petitioner.

The reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None

For the 2nd Party/1st Management : None

For the 2nd Party/2nd Management : None

Documents Marked: on the petitioner's side

Ex.No.	Date	Description
		Nil

On the Management's side

Ex.No.	Date	Description
		Nil

नई दिल्ली, 16 जुलाई, 2015

कांआ 1490.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन एफ रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण गुवाहटी के पंचाट (संदर्भ संख्या 05/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2015 प्राप्त हुआ था।

[सं एल-41011/84/2011-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th July, 2015

S.O. 1490.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 05/2012**) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati as shown in the Annexure in the Industrial Dispute between the management of **N.F. Railway** and their workmen, received by the Central Government on 16/07/2015.

[No. L-41011/84/2011-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT,

GUWAHATI, ASSAM.

Present : Shri L.C. Dey, M.A., LL.B.
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 05 of 2012.

In the matter of an Industrial Dispute between:—

The Workman Sri Gautam Ch. Das, represented by the General Secretary, Rail Mazdoor Union, Guwahati.

-Vrs-

The Management of N.F. Railway, Maligaon, Guwahati.

APPEARANCE

For the Workman : Mr. N. Khatoniar,
Learned Advocate.

Mr. M.K. Das,
General secretary,
RMU, Maligaon.

For the Management : Mr. A.K. Nath,
Learned Advocate.

Date of Award: 29.06.2015

AWARD

1. This Reference has been initiated on an Industrial Dispute between the Management of N.F. Railway, Maligaon, Guwahati represented by General Manager (P), N.F. Railway, Maligaon, Guwahati and their workman Sri Gautam Ch. Das represented by Rail Mazdoor Union on account of termination the service of the workman, *w.e.f.* 23.7.2011, which was referred by the Ministry of Labour, Government of India, New Delhi *vide* their order No. L-41011/84/2011-IR(B-I) dated 29.12.2011. The Schedule of this Reference is as under.

SCHEDULE

"Whether the action of the management of N.F. Railway in terminating the service of Sh. Gautam Ch. Das, Emergency Peon, *w.e.f.* 23.7.2011 is legal and justified? To what relief the workman is entitled?"

2. The case of the workman Sri Gautam Ch. Das, in nutshell, is that initially he was employed as worker in Officers Club of N.F. Railway, Maligaon wherefrom he came to know that there was probability of filling up of some posts of Substitute Emergency Peon (in short S.E. Peon). Then he applied for the post of S.E. Peon and accordingly he was appointed on 11.11.2009 against the clear vacancy of SE Peon attached to Sri N. Jayram, Chief Commerical Manager, North East Frontier Railway in the scale of pay Rs. 2550-3200/- per month under letter No. E/227/E-Peon (T)/Comml./Loose dtd. 11.11.2009 issued by the General Manager (P), Maligaon. The post of the workman in the Emergency Peon Unit under administrative control of the CCM/N.F. Railway, Maligaon in its Commerical Department headed by its principal Officer designated as Chief Commerical Manager at its Headquarter at Maligaon, and the seniority unit is looked after by the officer of Chief Personnel Officer, Maligaon, N.F. Railway in the personal matters. As such the post of S.E. Peon was to be maintained in the sanctioned strength of the relevant Emergency Peon Unit of the establishment of Chief Commerical Manager, N.F. Railway, Maligaon (in short CCM) against the permanent incumbent's absence or otherwise as per the permissible percentage of the Book of Sanction for substitutes against which substitutes can be engaged under terms and conditions. At the relevant time initially the appointment was made for three months but extended for further period depending on the satisfaction of the officer for whom in his official capacity the services of the SE Peon are meant for till he attains a temporary service status after 120 days continuous satisfactory service. The Officer to whom in his official capacity a SE Peon is attached has to certify the satisfactory service of the SE Peon serving under him at the end of 90 days of the service of the SE Peon and only thereafter his service is extended further. It is further pleaded that the substitutes are defined and their service conditions are provided for in Rule 1512 to 1516 of the Indian Railway Establishment Manual, 1989 (Revised Edition) and in the

Master Circular on the appointment of substitutes on the Railways No. 20 by the Railway Board/Ministry of Railways. The workman's service was extended after the officer concerned (CCM, NFR, MLG) certified his service as satisfactory; and in continuance of his service beyond the terms and conditions of one month initial appointment and on completion of his continuous service of 120 days as satisfactory, the workman was given status of Temporary Railway Employee with effect from 11.03.2010 as per rules *vide* Office order No. E/41/E-Peon/TS(T) dated 12.04.2010 issued by G.M.P. Maligaon. The workman mentioned that all on a sudden the Management discharged him from the service by an order dated 23.07.2010 issued by the General Manager, Personnel, N.F. Railway without following due procedure as established by law and the relevant Railway Rules framed therein *i.e.* the discharge of workman by way of termination of his service with one month's pay in lieu of one month's notice. The Union also mentioned that in his letter of termination the workman was entitled to retrenchment compensation at the rate of 15 days wage for each completed year of service as due u/s 25F(B) of the I.D. Act. It is mentioned that the order of discharging him from service dated 23.7.2010 was effective from 23.7.2010 but it was not available to the workman immediately nor he was paid the notice pay at the time of termination nor the Management ever served him the order of termination. The Management have failed to intimate the workman the payment of notice pay or instrumentalities of payment of notice pay and failed to pay him his notice pay and retrenchment compensation till long after violating the law of the land as well as the Railways Rules. The Management also terminated the workman under Rule 301(1) of Indian Railway Establishment Code, Volume-I, 1985 without following the Rule as enshrined in Rule 301(1) of the Indian Railway Establishment Code, Volume-I, 1985.

On being aggrieved the workman represented to the authorities his grievances through successive appeals followed by reminders praying for revocation of the termination order or reinstatement or alternative appointment and also offered to work as SE Peon with any other officer explaining the situation, but no result being found out of his long standing representation. Thereafter a dispute was raised but it was not settled amicably. The Union approached the RLC (C), Guwahati for conciliation but it also failed. Thereafter the Ministry of labour referred this dispute. It is alleged that the Management have acted in a way which was designed to deprive the workman from easy and routine engagement as SE Peon with another officer even though he sought such engagement and more and more officers were allowed SE Peon to be attached to them after termination of the workman service which are contrary to Rules as enshrined in Para-E of Circular No. E/205/O/RP-EMERGENCY PEON/PC/CON Dated, 15.02.1999 issued by Chief Personnel Officer, N.F. Railway wherein it is provided that while SE, Peon who has not

attained the temporary status can be terminated, it will not be a case that when he attained temporary status or became a regular group-D employee as it calls for disciplinary action which require all the requisites rules and formalities applicable to the regular employees are to be followed. The instruction was also given by the Secretary to CCM, N.F. Railway *vide* his letter No. C/Secy. to CCM/2010 dated 07.04.2010 giving the intimation that the workman completed 120 days quite satisfactory service and he is to be given the benefit of the status of temporary servant. The workman duly attained temporary status and was paid regular pay is governed by the Railway Service (Discipline and Appeal) Rules, 1968. Further case of the Union is that according to the Railway Establishment Rules the Substitute who has been in four months continuous service shall be entitled to all the rights and privileges admissible to temporary Railway Servants, and who have already acquired temporary status should be immediately screened for empanelment and their service should not be artificially broken merely to deprive from the benefits of attaining temporary status by dint of his labour. Therefore the order passed by the Management terminated the service of the workman is without authority of law, and is contradictory to their own order as mentioned above as the workman has completed 253 days without break on the date of his last pay accounting from 11.11.2009 which is the date of appointment to 31.07.2010 which is the date until which the workman was paid his salary. It is further stated that the Management has not followed the provision of their own Circular *vide* No. E/205/O/RP-EMERGENCY PEON/PC/CON Dated 15.02.1999 which provides that by implication that a terminated SE Peon has a locus to seek his fresh appointment in the same seniority unit. It is also stated by the Union that the termination of service was with effect from 23.7.2010 but the officer with whom he was attached *i.e.* CCM, N.F. Railway, Sri Jayaram put him out of his service under whom and placed him at the disposal at the Sr. Dy. Commercial Manager, Rangiya Division Sri S.C. Berman with effect from 21.04.2010 to 31.07.2010, and the reason of termination was shown by the Management far later since the issue of the order of termination that the Officer *i.e.* Shri Jayaram was not willing to take the workman with him and hence his service was no longer necessary to Railway Administration. In the face of the workman's working with the Sr. DCM, Rangiya before termination, this reason has no legal stand in and for this reason his service is to be taken as continuing due to the fact that the workman was taken in by some officer in place of his erstwhile officer as such, the reason of termination is not sustainable both in law and in terms of engagement and as such, the impugned order of termination is illegal, arbitrary against the provision of Articles 14, 16, 21 and 311(2) of the Constitution of India. Under the above premise the workman prayed for passing the Award granting relief directing the Management to implement the award of

the Hon'ble Court allowing the workman reinstatement from the date of his termination, absorption in a Group-D or now equivalent post in the Railway taking the lost time since his illegal termination as a period eligible to be counted as continuous service requires for screening.

3. The Management, on the other hand, pleaded that the Emergency Peon will be eligible for assessment of seniority Unit in Grade-D Post on completion of three years service after screening as per para-(B) 2 of Circular No. E/205/O/RP/Emergency Peon/PC/Con dated 15.2.99; and the Substitute Emergency Peon will attain temporary status after completion of 120 days satisfactory service as per Para-G of Circular No. E/205/O/RP-Emergency Peon/PC/Con dated 15.2.99 and their appointment and other service condition is guided by the same Circular dated 15.2.99. The Management denying the contention of the Union that the workman was terminated without following the due procedure as established by law and the relevant Railway Rules, mentioned that Sri N. Jayaram, Ex-CCM, N.F. Rly, Maligaon was transferred to EC Railways and posted as AGM, Hajipur, EC Railway and said Mr. N. Jayaram was not interested to take the workman to Hajipur. In terms of the GM(P), N.F. Railway, Maligaon's Circular No. 205/O/RP-Emergency Peon/PC/Con dated 15.2.99, if the officer leaves N.F. Railway on transfer or demit office on death, retirement or superannuation, voluntary retirement, etc, the service of the Emergency Peon is liable to be terminated with due notice unless he has rendered one year continuous service by the time (para-B-5). Accordingly Sri G.C. Das was terminated from service with one month notice pay in lieu of notice from 24.7.2010 to 23.8.10 and retrenchment compensation at the rate of 15 days wages.

The Management pointed out that in Para-4 of the workman's engagement letter dated 11.11.09 it has been mentioned that in the event of retirement/transfer of the Officers with whom the workman are engaged as Substitute Emergency Peon their service will be terminated if the successor or any other officers of Traffic Department does not accept the workman as his SE Peon for remaining 5 years and hence, the termination of the workman was done in accordance with the provision of the aforesaid Circular dt. 15.2.99 and the compensation due to the workman u/s 25(F)(B) of I.D. Act. As regards the statement made in Para-9 of the claim statement the Management stated that the notice pay in lieu of notice for one month *w.e.f.* 24.07.2010 to 23.08.2010 has been made along with the termination notice and a bill for an amount of Rs. 6773 was prepared but the same has not been drawn by the workman and the same became unpaid. The workman has been advised to provide the details of mode of payment so that the dues can be paid to him. The Management further mentioned that in the termination letter dated 23.7.2010 clearly mentioned that in Rule 301(I) of IREC, Vol (1) it has been provided as "if the termination of his service is due to some other cause, he shall be entitled to one month's notice

provided he was engaged on a contract for a definite period and the contract does not provide for any other period of notice". In the said termination letter it has also been clearly mentioned in para-3 (D)(5) and E of Circular No. E/205/O/RP-EMERGENCY PEON/PC/CON dated 15.02.1999 that termination of service of Emergency Peon when the Officer transferred to other Railway, the service of the Emergency Peon who will be terminated unless he has rendered one year continuous service. Further plea of the Management is that the Sponsoring Officer of the workman has been transferred out of N.F. Railway and he expressed unwillingness to take the workman along with him and at that time the workman has not completed one year regular service, and the workman was paid one month's notice pay in lieu of notice and retrenchment compensation due to him as per provision of I.D. Act; and that DAR proceeding before completion of one year can only be made when a SE Peon has completed 120 days of regular service and granted temporary status, when his services are not satisfactory or misconduct done by him as such, the Railway Board Circular dated 15.2.99 as quoted above does not apply. As per Circular No. E/205/O/RP-EMERGENCY PEON/PC/CON dated it is provided that the appointment of Emergency Peon at first instance will be a period of 3 months only and will be extended further on receipt of a certificate from the Controlling officer that the services of Emergency Peon are satisfactory and that he can continue further so that Temporary status can be given to the SE Peon. The policy regarding service condition of SE Peon are formulated by the N.F. Railway following the provision of Indian Railway Establishment Code, the Railway Establishment Manual, Industrial Dispute Act and other Railway Rules. The Management contended that the SE Peon may apply for reengagement provided any other officer expressed his willingness to take him as SE Peon, but in the instant case no officer has submitted willingness to appoint the workman as SE Peon. Under the above circumstances the Management contended that the claim statement filed by the workman is false and frivolous and it is liable to be rejected.

4. The Union, in order to establish their case, examined three witnesses including the workman Sri Gautam Das (W.W.1), Sri Sanjib Debnath (W.W.2) one of the neighbors of the workman, and Sri Mridul Kr. Das, General Secretary, RMU, N.F. Zone, Pandu (WW.3). While the management examined one witness namely Sri Amit Kumar, Assistant Personnel Officer, N.F. Railway as M.W.1. After closing of evidence of both the sides I have heard argument from both the sides at length. The Union submitted written argument also.

5. I have perused the entire C.R., the evidence adduced by both the sides along with document relied upon them, and the written argument submitted by the Union. Let me discuss the evidence adduced by both the sides and the documents proved by the parties.

6. According to the workman Sri Gautam Ch. Das (W.W.1) he initially joined as worker in the Officers' club, N.F. Railway, Maligaon and in course of his working period he came to know that there were some vacancies in the Emergency Unit under the Chief Commercial Manager, N.F. Railway (CCM, N.F. Railway), while he applied for the post of SE Peon and accordingly he was appointed as SE Peon vide letter No. E/227/E-Peon(T)/Comm1/Loose dated 11.11.09 marked as Exhibit-1 in the scale of pay of Rs. 2550/- to 3200/- p.m. The workman joined his duties on the same date i.e. on 11.11.09 and he was attached to CCM, N.F. Railway. His appointment was initially for a period of 3 months as per the conditions of his service which would be extended depending upon the satisfaction of the officer concerned to whom he was attached till attaining the status of temporary servant after 120 days of continuous satisfactory service. Accordingly he was given temporary status on completion of 120 days of continuous service vide order dated 12.4.2010 marked as Exhibit-2. At that time workman was working under Sri J. Jayram considering that Sri N. Joyram would be transferred to E.C. Railway, Hajipur as AGM, he was transferred to Rangiya and was engaged as Emergency Peon attached to Sri S.C. Barman, Sr. DCM, Rangiya from April, 2010 to July, 2010; and in fact, the General Manager (P) on 26.4.2010 requested the DRM (P), Rangiya to forward the application of Sri S.C. Barman so as to engage him as Emergency Peon with him vide his letter No. E/41/Cadre/E-Peon(T) dated 26.04.2010 provided as Exhibit-3. But the Management, suddenly discharged the workman from his service by order issued under Memo No. 550E/2109(T) dated 23.7.2010 by the General Manager (P), N.F. Railway, without following the due procedure as established by law and the relevant Railway Rules vide Exhibit-4. The workman, on being aggrieved, represented before the authorities vide his representation dated 25.7.10, 26.7.10, 6.10.10, 5.12.10 vide Exhibit-5, Exhibit-6, Exhibit-7 & Exhibit-8 respectively before the appropriate authority with prayer for revocation of the termination order, reinstatement or alternative appointment but all were in vain. Thereafter, the workman approached the Union (RMU, N.F. Zone) raising his grievance and ultimately the dispute was referred to the RLC (C), Guwahati for reconciliation but it failed, as a result, this reference has been initiated. The workman also proved the extract from the Attendance Register for the period from November, 09 to July, 2010 vide Exhibit-10 containing 9 pages which were duly certified by the authorized officer of the Management.

In course of his cross-examination the W.W.1 stated that he worked under CCM, N.F. Railway with effect from 11.11.09 to 20.4.2010 and on 21.4.10 he was transferred to Sr. DCM, Rangiya while on 17.4.10, the CCM, N.F. Railway called him through his Private Secretary and both the CCM & PPS told him that since the CCM has been transferred he has also been transferred to the Sr. DCM, Rangiya and accordingly he reported the Sr. DCM, Rangiya on 21.4.10.

Further no order for his transfer was issued nor handed over any document in this respect. He also mentioned he did not submit any joining report in writing before the Sr. DCM, Rangiya. The W.W.1 mentioned that as per Exhibit-3 the letter dated 26.4.2010 the Assistant Personnel Officer (T) for General Manager (P), Lumding requested the DRM(P), Rangiya for forwarding the application of S.C. Barman, Sr. DCM, Rangiya regarding his posting as the substitute Emergency Peon under the Sr. D.C.M., Rangiya with approval of DRM, Rangiya. On 24.7.10 when he attended the duty the Sr. DPO, Rangiya told him that his service has been terminated, when he came to the CCM Office, Maligaon and on enquiry the PS to CCM told him that his service has been terminated. But at the time of termination he was not paid the Notice Pay i.e. one month's salary. He denied the suggestion tendered by the learned Advocate for the Management that at the time of his transfer the CCM, N.F. Railway, Maligaon wanted to take the workman with him and on his refusal the CCM, N.F. Railway posted the workman under another Junior Officer. He also denied the suggestion that the Sr. DCM, Rangiya was not interested to keep him and hence his service was terminated. He again denied the suggestion put forward by the learned Advocate for the management that due to dissatisfaction of his Officer Sri S.C. Barman, Sr. DCM his job was terminated for which the management has nothing to do with and he is liable to be terminated.

The W.W. 2 Sri Sanjib Deb Nath, one of the neighbours of the workman Gautam Das, stated the workman was appointed as SE Peon vide order dated 11.11.09 against the clear vacancy and was attached to Sri N. Jayram, CCM, N.F. Railway; and on completion of 120 days of continuous service the workman was given temporary status. He also mentioned that considering the fact that Sri N. Joyram would be transferred to EC Railway, Hajipur, the workman was transferred to Rangiya and he was engaged as Emergency Peon attached to Mr. S.C. Barman. W.W.2 stated that he knew the workman regularly attending his duty at Rangiya. Thereafter the workman informed him that all on a sudden the management discharged him from service by an order dated 23.7.2010 without following the due procedure established by law.

During his cross-examination he stated that the learned Advocate for the workman wrote the evidence on Affidavit after asking him in details about his statement and he put his signature on his Affidavit after reading over to him the same by his learned Advocate and finding the content of the Affidavit correct according to him. He also stated that his elder brother was working in the Railway staying with him, and the father of the workman also working in Railway who was his neighbour. He again mentioned that generally Emergency Peon are entrusted with the domestic work in the residence work of the officer and sometimes in need, they are, to work in office also and the Emergency Peon is responsible to the Officer with whom he is entrusted. He

again mentioned that the workman was first attached to Sri N. Jayram and thereafter he was transferred to Rangiya and attached to Mr. S.C. Barman, Sr. DCM which he heard from the workman. He also said that he had not seen the workman at the residence of Mr. S.C. Barman at Rangiya. However, he denied the suggestion advanced by the management that the workman was not transferred to Rangiya and attached to Mr. Barman. He heard from the workman that regarding his transfer to Rangiya a letter was written by the Office. He further denied the suggestion that due to his good relation with the family of the workman he deposed supporting the workman without knowing the actual fact.

The W.W.3, Sri Mridul Kanti Das, General Secretary, RMU in his evidence mentioned that the post of the workman is in the Emergency Peon Unit under administrative control of the CCM, N.F. Railway, and at the relevant time the post of SE Peon was maintained to the sanctioned strength of the relevant Emergency Peon Unit of that establishment and there is permissible percentage of the Book of Sanction for substitutes according to which substitutes can be engaged in a permanent post when permanent incumbent is absent or otherwise when such engagement is required. He also mentioned that the substitutes are defined and their service conditions are provided for in Rule 1515 to 1516 of the Railway Establishment Manual 1989 (Revised Edition) and in the Master Circular on the Appointment of Substitutes. He has proved the extract from Rule 1512 to Rule 1516 of the Indian Railway Establishment Manual, 1989 vide Exhibit-11; the Master Circular No. 20 regarding appointment of Substitute in Railway vide Exhibit-12; the Rule 301 of Indian Railway Establishment Code, Volume-I, 1985 vide Exhibit-13. The W.W. 3 mentioned that the order of termination of the workman states that the workman was terminated from service under Rule 301(1) of Indian Railway Establishment Code, Volume-I, and Para-B (5) (e) of letter No. E/205/O/RP-EMERGENCY PEON/PC/CON dated 15.2.99 and Para-2 of the engagement letter; and the said order was passed without following the due procedure established by law and the relevant Railway Rules framed thereunder. He also mentioned that there existed vacancy in these posts and adequate numbers to continue the work in the post of SE Peon in the Traffic Department of the Headquarters Unit with any other officer or given due treatment under the provision and the vacant posts were filled up after termination of the workman from service. In support of this contention the W.W. 3 proved the information regarding the vacancy position supplied by the Management under RTI Act vide Exhibit-14 wherein it has been made clear that after the termination of the workman the next men in the same manner of ad hoc appointment were appointed in the Commercial Department as SE Peons and there was one clear vacancy; but the management have acted in a way to deprive the workman from easy and routine engagement

as SE Peon for another officer even though he sought such an engagement and more and more officers were allowed SE Peon to be attached to them after the termination of the workman. Mr. Das, further mentioned that as per Para-E of the Railway Establishment Manual the Master Circular No. E/205/O/RP-EMERGENCY PEON/PC/CON dated 15.2.99 marked as Exhibit-15 read with Indian Railway Establishment Manual and the Establishment Code along with the provision of I.D. Act, while EP who has attained the temporary status it falls for a disciplinary action which required for all the requisite rules and formalities applicable for the regular employees are to be followed. The W.W. 3 further stated that the notice pay was not paid to the workman as per rule as mentioned in Para-E-4 of Circular marked as Exhibit-15 and the retrenchment compensation was also not paid at the time of termination as per Section 25F(B) of the I.D. Act. In support of his contention the W.W. 3 has proved the Pass Book of SBI in respect of the Bank Account of the workman vide Exhibit-19.

In course of his cross-examination the W.W. 3 stated that the workman informed the Union verbally as to his grievance against the management and there is no written document with the Union in this regard, and that the workman was discharged under Rule 301 of Indian Railway Establishment Code, Volume-I without assigning any reason thereof. He also mentioned that the information produced by him before the Court in support of his statement at para-5 of his evidence-in Affidavit obtaining the same under RTI Act through one Mr. Chatterjee and as he has been representing the workman on behalf of the Union he has produced the same before the Court. He also mentioned that in his evidence he categorically stated that the workman was deprived of getting the employment due to the violation of the Standing Order of the Railway. However, he denied the suggestion that he has not specifically mentioned on what point the management has violated their Circular in not appointing the workman and that after transfer of the then CCM, Mr. Joyram, due to non-recommendation of the workman by any other officer the workman was discharged. He also denied the suggestion that due to transfer of Mr. Joyram and also for non-recommending the name of the workman by Sri S.C. Barman, Sr. DCM, Rangiya the service of the workman could not be continued, and as such, the management has not committed any wrong or illegality in discontinuing the service of the workman and that the management will still consider the workman if he appears with recommendation of the competent officer.

The Management Witness No. 1, Mr. Amit Kumar, Assistant Personnel Officer, Traffic, N.F. Railway, Maligaon, who is acquainted with the facts and circumstances of the case, deposed that the workman Gautam Das was appointed as SE Peon attached to CCM, N.F. Railway with effect from 11.11.09. As per the condition No. 3 of the appointment

letter in respect of the workman vide No. E/227/E-Peon(T)/COMML/Loose dated 11.11.09 marked as Exhibit-A. The workman would be transferred with the Officer for whom he was engaged as SE Peon or would be discharged in the event of the officer for whom he was engaged expressed his unwillingness to take him on transfer along with him; and that Sri N. Jayram, CCM, N.F. Railway with whom the workman was engaged, was transferred to East Central Railway on 19.7.2010, who was not willing to take the workman with him as SE Peon and the same was intimated to the Establishment Officer, N. F. Railway through his Secretary vide Exhibit-C. The workman was not appointed in Railway through open market Railway Recruitment Board examination or other procedure, he was appointed as per the policy decision of N. F. Railway vide policy of Emergency Peon-Revised Policy in engagement/retranchment etc. vide No. F/205/O/RP-EMERGENCY PEON/PC/CON Dated 15.2.99 marked as Exhibit-D; and as per para-C(1) of the said letter the procedure of Emergency Peon who is not a regular group-D employee transfer from one Railway to another Railway is not possible; and that in case of officers taking the Emergency Peon with them on transfer, the service of the Emergency Peon will be deemed to have been terminated automatically and the said Emergency Peon will have no right for absorption back on the basis of previous service. He also mentioned that as per para-B(2) of the said Policy (Exhibit-D) the Emergency Peon are eligible for regular absorption only after completion of 3 years continuous satisfactory service, and as the workman was engaged with Mr. N. Joyram, CCM who was transferred to East Central Railway and as the workman has not completed the prescribed service for absorption in Railway as regular employee and as his transfer was not possible as per the transfer policy of the Railway, hence, his service was terminated with effect from 23.7.2010. The MW.1 stated that the N. F. Railway furnished reply to the representation submitted by the workman vide their letter No. 550E/2109 dated 02.11.2010 marked as Exhibit-E, and the notice pay in lieu of notice for one month and the retranchment compensation was prepared along with termination letter and accordingly the bill amounting to Rs. 6773/- was prepared by BR No. T/160/10 dated 27.7.2010 vide Exhibit-F, but the workman did not come forward to receive the amount from the cash office and hence it remain unpaid, nor did the workman submit his mode of payment option. Further the workman was paid his leave salary and the same was paid through Bank on submission of the option for mode of payment by the workman vide Exhibit-G the sanction order to leave encashment; and Exhibit-H the option for mode of payment submitted by the workman. He again mentioned that the service of the workman was terminated as per the provision of the Railway Rules as mentioned above as well as according to the provision of law and that the termination was not as the major of penalty; and hence, the workman is not entitled to any relief and the reference is liable to be set aside.

During his cross-examination the MW.1 stated that the workman worked upto 23.7.2010 and he used to sign the Attendance Register regularly and the said Attendance Register was maintained in the office of the officer concerned namely N. Jayram, CCM. He mentioned that the Emergency Peon are to work both in bungalow of the officer concerned and discharge all the emergency works of the officer concerned. He also added that during his service tenure the workman used to attend his duty regularly. However he denied the suggestion tendered by the Union that during April, 2010 to June, 2010 the workman was appointed as Emergency Peon attached to S.C. Barman, Sr. DCM, Rangiya. But he could not say if the workman served as Emergency Peon under Mr. Barman, Sr. DCM, Rangiya, however, the then APO(T), Sri G.K. Dey wrote a letter marked as Exhibit-3 to the DRMP/Rangiya regarding posting of E. Peon attached to DCM, Rangiya to the effect that Mr. SC Barman, DCM, Rangiya had proposed for engagement of the workman as Emergency Peon attached with him vide application dated 30.3.2010. Mr. Kumar again denied the suggestion that due to some understanding between Shri N. Joyram, CCM & Sri S.C. Barman, Sr. DCM, regarding engagement of the workman as Emergency Peon attached to Sr. DCM, Rangiya the letter marked as Exhibit-3 was issued. He also mentioned that it is not known to him whether the termination letter was received by the workman by acknowledging the receipt of the same putting his signature. However, Mr. Kumar denied that the workman concerned has not received the termination letter marked as Exhibit-4.

7. On perusal of the document marked as Exhibit-1 i.e. the letter of engagement of the workman Sri Gautam Ch. Das as SE Peon, it appears from the terms and conditions No. 5 of the said engagement letter the engagement of SE Peon at the first instance will be for a period of 3 months only and it will be extended further on receipt of a certificate from the Controlling Officer to the effect that the service of the SE Peon are satisfactory and that he can be continued. As per Rule 1515 of the Indian Railway Establishment Manual 1989 (proved as Exhibit-11) the SE Peons are entitled to all rights and privileges as admissible to the temporary Railway Servant after acquiring the temporary status. The said rule is as under:

“1515. Rights and Privileges admissible to the Substitutes.—Substitutes should be afforded all the rights and privileges as may be admissible to temporary railway servants, from time to time on completion of four months continuous service. Substitute school teachers may, however, be afforded temporary status after they have put in continuous service of three months and their services should be treated as continuous for all purposes except seniority on their eventual absorption against regular posts after selection.”

Para - 4.2. of the Master Circular of appointment of Substitutes on the Railways vide No. E(NG)11/90/68 (Exhibit-12) runs as under:

“4.2:- they should be allowed all the rights and privileges as are admissible to temporary Railway employees on completion of four months continuous service.”

In the revised policy for engagement/retranchment of Emergency Peon issued vide letter No. E/205/O/RP-MERGENCY PEON/PC/CON dated 15.2.1999 (Exhibit-15) by the N.F. Railway, Maligaon in para-A-5 it has been clearly mentioned that the appointment of Emergency Peon at the first instance will be for a period of 3 months only and will be extended further on receipt of a certificate from Controlling Officer that the service of Emergency Peons are satisfactory and that he can continue further. In Para-E of the said Circular (Exhibit-10) specifically mentioned the matter regarding discharge/termination of service of Peons which runs as:

"E DISCHARGE/TERMINATION OF SERVICE OF E/PEONS

1. Termination of the services of E/Peons is a sensitive aspect and this is required to be dealt with utmost caution so that relevant provisions of the Establishment Code as well as that of Industrial Disputes Act are not infringed. In view of this, it is felt necessary that the existing procedures for termination of services of E/Peon are reiterated for information and guidance of all concerned. It is clarified that all termination letters have to be issued from Personnel Branch and not directly by the Executive Branch. Necessary guidelines for termination of E/Peon are detailed below:—

2. Rule 301(1) of Indian Railway Establishment Code, Volume-I, is the relevant rule under which termination of service of Emergency Peon is to be resorted to.

3. NOTICE FOR TERMINATION OR PAYMENT IN LIEU OF NOTICE.

While resorting to termination, due notice or pay in lieu of notice must be given, otherwise it will not be able to stand judicial proceeding, if any.

- | | |
|---|--|
| (a) For Emergency Peon who has Completed for 120 days service | 14 days notice is to be given for termination of service or 14 days wage in lieu is to be given. |
| (b) For Emergency Peon who has Completed 240 days service. | one month's notice is to be given or one month's pay in lieu of notice is to be given. |
| (c) For those who have not Completed even 120 days service. | No notice or Notice Pay in lieu is required to be given. |

4. PROCEDURE FOR PAYING NOTICE IN LIEU OF NOTICE

Payment of Notice Pay is a very important aspect and the proper course of action is to be ensured to prepare the bill beforehand and get it passed from the Accounts. When the bill reaches Cash Office, then only the termination order is to be handed over to the concerned E/Peon, whose services are sought to be terminated. In the termination order, it should be indicated that the E/Peon concerned should take his Notice Pay from the concerned Cash Office. It is very important because unless Notice Pay is given in lieu of Notice within 48 hours of termination of service and the person concerned goes to the CAT or Regional Labour Commissioner, the entire process of termination of service may be declared null and void. This is a very vital issue. “It may be mentioned that the Court cases in regard to termination of service of Emergency Peon largely originate from this aspect”.

Rule 301(1) of the Indian Railway Establishment Code marked as Exhibit-13 (proved in original) which provides that

“301-Termination of Service & Period of Notice - (1) Temporary Railway Servants - When a person without a lien on a permanent post under Government is appointed to hold a temporary post or to officiate in a permanent post, he is entitled to no notice of the termination of his service if such termination is due to the expiry of the sanction to the post which he holds or the expiry of the officiating vacancy, or to his compulsory retirement due to mental or physical incapacity or to his removal or dismissal as a disciplinary measure after compliance with the provisions of Clause (2) of Articles 311 of the Constitution of India. If the termination of his service is due to some other cause, he shall be entitled to one month's notice provided he was engaged on a contract for a definite period and the contract does not provide for any other period of notice; and to a notice of 14 days if he was not engaged on a contract.”

8. From the pleadings of both the sides as well as the evidence of management witness No. 1 it is found admitted that the workman was engaged as SE Peon with effect from 11.11.09 and he discharged his duties upto 23.07.2004 regularly and so such, he rendered continuous service of 253 days, and that the workman was granted temporary status with effect from 11.3.2010 vide Exhibit-2. The extract from the Attendance Register of SE Peon proved as Exhibit-10 (9 pages) shows that the workman had been working as SE Peon with effect from 11.11.09 to 15.7.10 and thereafter he was spared to Sr. DCM, Rangiya and worked there upto 23.7.2010 (as admitted), although the workman in course of his cross-examination confirmed that he worked under CCM, N.F. Railway with effect from 11.11.09 to 20.4.2010 and he was transferred and attached to Sr. DCM, Rangiya

on 21.4.2010 as per verbal order to the CCM N.F. Railway and his Private Secretary; and accordingly he reported to his duty under Sri S.C. Barman Sr. DCM, Rangiya on 21.4.2010. The workman also categorically mentioned that on 24.7.2010 when he attended his duty the Sr. DPO, Rangiya told him that his service has been terminated. From the note dated 21.7.2010 issued by the Secretary to CCM, Maligaon addressed to the APO(T), Maligaon *vide* No. G/SS/S/NF/Pt proved as Exhibit-C shows that Mr. N. Joyram, CCM, N.F. Railway under whom the workman was attached to had handed over his charge on 19.7.2010; while the termination letter was issued on 23.7.2010. The Union took the plea that consequent upon transfer of Mr. N. Joyram, CCM, N.F. Railway to EC Railway as AGM, the workman was spared to Rangiya and he was allowed to work as SE Peon attached to Mr. S.C. Barman, Sr. DCM, Rangiya. In this connection the Union has proved the letter marked as Exhibit-3 (No. E/41/cadre/E-Peon (T) dated 26.4.2010) issued by the Assistant Personnel Office (T) for the General Manager (T), Maligaon to the DRM (P), Rangiya wherein it has been stated as under:-

"(1) Sr. S.C. Barman, Sr. DCM/RNY has proposed for engagement of Emergency Peon Shri Gautam Ch. Das attached with him *vide* application dated 30.03.2010. Shri Gautam Ch. Das has already been appointed as Sub. E/Peon attached with N. Jayram, CCM/MLG. Since CCM/NFR is going to be transferred to E.C. Railway/Hajipur as AGM, Sri S.C. Barman.

(2) But it is seen that the proposal of Sri S.C. Barman, Sr. DCM/RNY for engagement of Sri Gautam Ch. Das as Sub. E/Peon attached to him has not been forwarded with approval of DRM/RNY.

(3) It is therefore, you are requested to forward the application of Sri S.C. Barman, Sr. DCM/RNY regarding posting of Sri Gautam Ch. Das as Sub. E/Peon under him with approval of DRM/RNY for further processing the case as desired by competent authority."

From the language of this letter it is revealed that Sri S.C. Barman, Sr. DCM, Rangiya has proposed for engagement of Emergency Peon Sri Gautam Ch. Das consequent upon transfer of Mr. N. Jayram, CCM, Maligaon and at that time Sri Gautam Ch. Das was attached to Sr. S.C. Barman, Sr. DCM, Rangiya; and as such, the DRM(P), Rangiya has been requested to forward the application of Sr. S.C. Barman, Sr. DCM, Rangiya regarding the posting of Gautam Ch. Das as SE Peon with approval of the DRM, Rangiya. From the above, it can safely be pointed that before transfer of Mr. N. Joyram, the then CCM, N.F. Railway, Maligaon the workman Gautam Ch. Das was attached to Mr. S.C. Barman, Sr. DCM, Rangiya on the preference given by Sr. S.C. Barman, Sr. DCM, Rangiya. The Rule 1515 of the Indian Railway Establishment Manual 1989, revised edition clearly mentioned that Substitues should be afforded all the rights and privileges as may be admissible to temporary

railway servants, from time to time on completion of our months continuous service. The management *vide* their letter marked as Exhibit-4 terminated the service of the workman under Rule 301(1) of Indian Railway Establishment Code, Volume-1 and the Railway Circular letter dated 15.2.99 (Exhibit 15) without assigning any reason thereof. Since the workman Gautam Ch. Das has acquired the temporary status the Discipline, Appeal and Conduct Rules of Railways is applicable in the case. But the Management terminated the workman without following the provision of the said rules. According to the Digest of Discipline Appeal and Conduct Rules by B.S. Mainee, Rules 1-3: APPLICATION & DEFINITIONS

(7) X X X X X X

X X X X

Notes (i) X X X X X

(ii) It has been clearly mentioned that Casual labours and substitutes on completion of four month service, when paid regular scales of pay, attain temporary status and are, as such, governed by these rules.

Thus it is clear that the engagement of Substitute Emergency Peon is made initially for a period of 90 days and it can be extended subject to the certificate of satisfactory service of the said Emergency Peon by the Officer concerned with whom he was attached to, and that on completion of 120 days of satisfactory service the said Substitute Emergency Peon acquires the rights and privileges similar to those of a temporary railway servant. It is also found that after attaining temporary status the service of substitute Emergency Peon cannot be terminated/retrenched without following the due process of law and the provision of Article 311 of the Constitution of India.

The Management both in their W.S. as well as in their evidence (evidence of management witness No. 1) admitted that fact that the workman was engaged as SE Peon with effect from 11.11.09 and he discharged his duty upon 23.07.2010 after attaining temporary status, & that the workman was regular in attending his duties with satisfaction of the officer to whom the workman was attached. It is also found well established that the notice pay as well as the retrenchment compensation have not been paid to the workman as per the provision of Revised Policy for engagement/retrenchment of Emergency Peon issued *vide* letter dt. 15.2.99 (Exhibit-15) & Rule 301(1) of Indian Rly. Estt. Code, Volume-I (Exhibit-13). Further, the evidence on record as discussed above also shows that the contention of the Union that the workman as per the verbal direction of the officers of the Railway reported for duty to the Sr. D.C.M., Rangiya can not be ruled out.

9. During argument Mr. A.K. Nath, learned Advocate for the management submitted that the workman was

terminated from service with effect from 23.7.2010 under Rule 301(1) of the Indian Railway Establishment Code, Volume-I consequent upon the transfer of the officer concerned i.e. Mr. N. Joyram, CCM, N.F. Railway, Maligaon with whom the workman was attached to and also due to non-submission of preference of attachment of the said workman by any other office. Mr. Nath, Learned Advocate also mentioned that the terms and conditions of the engagement of the workman has been clearly mentioned in the engagement letter marked as Exhibit-1 Mr. Nath, Learned Advocate also mentioned that the claim of the workman that he had been attached to Mr. S.C. Barman, Sr. DRM, Rangiya is also not true since there is no proof, and that the plea of the Union relying upon the document marked as Exhibit-3 is not true and legal since the said letter is not a forceful one in order to justify that the workman had been attached to Sri. S.C. Barman, Sr. DCM, Rangiya.

Mr. M.K. Das learned counsel for the Union submitted that the workman after attaining the status of temporary Railway Servant is entitled to all the rights and privileges admissible to the temporary Railway Servant and hence the workman is entitled to protection under Rule 14 and 311(2) of the Constitution of India. In support of his contention Mr. Das relied upon the case of V.P. Ahuja - Vrs- State of Punjab and Ors. reported in (2000) 3 SCC 239 wherein it was held that a probationer like a temporary servant is also entitled for certain protection, his service can not be terminated arbitrarily or punitively without complying with the principle of natural justice; and that the termination order could not be passed without following the regular enquiry. In the said judgement the Hon'ble Supreme Court also observes that the Appellant cannot claim any right on the post on which he was appointed and being on probation and his service could be terminated since his work was not satisfactory without any notice as set out in the appointment letter but this plea can not be accepted. Mr. Das also relied the case of Purshotam Lal Dhingra - vrs - Union of India, Respondent AIR 1958 SC 361 wherein it was observed that just as Art. 310, in terms, makes no distinction between permanent and temporary members of the services or between persons holding permanent or temporary posts in the matter of their tenure being dependent upon the pleasure of the President or the Governor, so does Art. 311, make no distinction between the two classes, both of which are, therefore, within its protection. To limit the protection of Article 311 only two persons who are permanent members of the service or who hold permanent civil post will be to do equal works to the Railway which would be contrary to is not principle of introduction of Constitution or a Statute. In that case the Hon'ble Supreme Court further observed "In the absence of any special contract the substantive appointment to a permanent post gives the servant so appointed a right to hold the post until, under the rules, he attains the age of superannuation or is compulsorily retired after having put

in the prescribed number of years' service or the post is abolished and his service cannot be terminated except by way of punishment for misconduct, negligence, inefficiency or any other disqualification found against him on proper enquiry after due notice to him. An appointment to a temporary post for a certain specified period also gives the servant so appointed a right to hold the post for the entire period of his tenure cannot be put an end to during that period unless he is, by way of punishment, dismissed or removed from the service".

Mr. M.K. Das also raised another argument that the workman was verbally ordered by the CCM, N.F. Railway & P.P.S to the CCM, N.F. Rly, that the workman has been transferred to the Sr. DCM, Rangiya & accordingly the workman reported for duties to the Sr. DCM, Rangia on 21.4.2014 & worked there till 24.7.2010 & the contention of the Union in their claim statement as well as in their evidence remained untwisted, unshaken & un-rebutted & as such the verbal order of transfer of the workman amount to promise by the management of N.F. Railway & hence the management is estoppel from terminating the workman. In this connection Mr. Das relied upon the decision in Jit Ram Shiv Kumar & Other-vs-State of Haryana & Others reported in AIR, 1980 SC 1285.

10. The evidence on record show that the workman after his termination represented the Management on several occasions for his re-instatement/re-engagement *vide* Exhibit-5, Exhibit-6, Exhibit-7, Exhibit-8 and Exhibit-9 but the Management did not pay heed to it. Further, the information regarding the vacancy of SE Peon at the relevant period as it supplied by the Management *vide* Exhibit-14 on filling application by the Union under R.T.I Act shows that there was one vacancy and the SE Peon under Dy. CCM, N.F. Railway. Thus, the Management could re-engage/re-instate the workman against the said vacant post of SE Peon. Further, there is also nothing to show on record that under what circumstances after receiving preference to attach the workman from Mr. S.C. Barman, Sr. DCM, Rangia to entrust the workman with him. The evidence on record also shows that at the time of termination of the workman no Notice Pay was paid although the Management Witness said that although the bill for Notice Pay of the workman was prepared *vide* Exhibit-F. On perusal and on scrutiny of the Exhibit-F it is seen that the said Notice Pay was prepared on 14.11.2010 and the same was signed on 14.11.2012 as such, it is crystal clear that the Management has committed gross violation of the Rules regarding payment of Notice Pay to the workman & such an act of the management is illegal.

11. From the above discussion it is found well established that the service of the workman was terminated, after discharging his duty for a period of 253 days *i.e.* after acquiring the status of temporary Government servant, without holding any enquiry nor issuing any prior notice

to the workman. Further it is also found that the workman after his dismissal represented before the Appellate Authority for his reinstatement but there is nothing on record to show that his appeal was entertained. In this connection I am inclined to rely upon the decision of Hon'ble Supreme Court in Ram Chander—*vs*—Union of India and Ors. reported in AIR 1986 SC 1173 wherein it was held that "it is of utmost importance after the Forty-Second Amendment as interpreted by the majority in Tulsiram Patel's case that the Appellate Authority must not only give a hearing to the Government servant concerned but also pass a reasoned order dealing with the contentions raised by him in the appeal. We wish to emphasize that reasoned decisions by tribunals, such as the Railway Board in the present case, will promote public confidence in the administrative process. An objective consideration is possible only if the delinquent servant is heard and given a chance to satisfy the Authority regarding the final orders that may be passed on his appeal. Considerations of fair-play and justice also require that such a personal hearing should be given."

The Hon'ble Supreme Court in a catena of cases held that reasonable opportunity as envisaged by Articles 311(2) should be afforded to the workman before his dismissal/removal/termination, and that the authority concerned empowered with the task of entertaining appeal who applied their mind on the representation of the delinquent. In the instant case the workman in spite of acquiring the status of temporary Railway servant was deprived of availing the protection as envisaged under Rule 301 in the Railway Establishment Code, the letter No. E/2005/O/RP-EMERGENCY PEON/PC/CON dated 15.2.99 (Exhibit-15) the revised Policy for engagement/retrenchment of Emergency Peon (Exhibit-17) issued by the Railway, and the Discipline Appeal and Conduct Rules. It is also found well established that the workman was denied the protection as envisaged in Articles 14, 16 and 311 of the Constitution of India as well as the principle of natural justice.

12. In this connection, before parting with my discussion, it may not be out of context to mention here that in the schedule of this reference it has been mentioned that whether the action of the Management of N.F. Railway, in terminating the service of Sri Gautam Chandra Das, Emergency peon *w.e.f.* 23.7.2011 is legal & justified. While both the management & the Union in their pleadings as well as evidence admitted the fact that the workman was terminated from his service on 23.7.2010. As such, there is no dispute as to the date of termination of the workman from service *e.i.* on 23.7.2010. Moreover, there is also chance of wrong entry of the date as 23.7.2011 due to typographical mistake. Hence, the date of termination of the workman is accepted as 23.7.2010 in lieu of 23.7.2011 as mentioned in the Schedule of this reference. In view of my above discussion and having regard to the decision of the Hon'ble Supreme Court as discussed above I find no reason to

reject the contention of the Union that the workman Sri Gautam Ch. Das was terminated from his service as Emergency Peon with effect from 23.07.2010 after attaining temporary status, is illegal and not justified, and such action of the Management is against the provision of Art. 311(2) of the Constitution of India, the Standing Orders of the Railway and the principle of natural justice. Accordingly it is opined that the action of the management of N.F. Railway, Guwahati in terminating the service of the workman Sri Gautam Ch. Das, Ex/Emergency Peon *vide* order is illegal and not justified. As such the workman is entitled to relief.

13. In the face of the findings arrived at as above, it is held that the workman is entitled to be reinstated as Substitute Emergency Peon or in Group-D or now equivalent post in Railway with his inter-se seniority as on the date of his engagement. As regards backwage as claimed by the workman it is mentioned that the workman in his evidence stated that since after his termination he has been working in a private company drawing wage of Rs. 2000/-p.m. (*vide* Exhibit-8), and in my humble opinion I find it wise to award 50% of his back wage with effect from the date of his termination, which I hope will meet the ends of justice. Accordingly this reference is disposed of deciding the issue in favour of the workman.

14. However, I award no cost. Let this Award be forwarded to the Ministry for needful as per procedure.

Given under my hand and seal of this Court on this 29th day of June, 2015 at Guwahati.

L.C. DEY, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1491.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम मंत्रालय आसनसोल के पंचाट संदर्भ संख्या (100/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं० एल-12012/156/1999-आई० आर० (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th July, 2015

S.O. 1491.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No.100/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 16/07/2015.

[No. L-12012/156/1999-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

PRESENT: Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 100 OF 1999

PARTIES : The management of State Bank of India,
Burdwan

Vs.

Sri Mayanand Prasad

REPRESENTATIVES:

For the Management : Sri A. Chakraborty,
Ld. Adv.

For the union (Workman) : Sri P.K. Das, Ld. Adv.

Industry : Bank State: West Bengal

Dated: 01.07.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter **No. L.12012/156/1999-IR(B-I)** dated 29.07.1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of State Bank of India, Zonal Office, Region IV Burdwan in termination the service of Shri Mayanand Prasad, Messenger on 31.03.1997 is legal and justified, if not what relief the workman is entitled to?”

Having received the Order **No. L-12012/156/1999-IR(B-I)** dated 29.07.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 100 of 1999 was registered on 18.08.1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Sri A. Chakraborty, Learned Advocate for the management (State Bank of India, Zonal Office, Burdwan) and Sri P.K. Das Learned Advocate for the workman (Sri Gopal Chandra Dutta) are present.

Mr. P.K. Das submits that the case may be closed and a 'No dispute Award' may be passed as he has got no instruction from the workman. He has also mentioned it on the order sheet. On perusal of case record I find that the workman is neither appearing nor taking any step from 05.09.2012 for his cross-examination. It seems that the workman is now not at all interested to proceed with the case further. The case is also very old—in the year 1999. As such the case is closed and a '**No Dispute Award**' may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1492.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 17/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-41011/19/2014-आई आर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi the 16th July, 2015

S.O. 1492.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No.17/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the industrial dispute between the management of North Eastern Railway and their workmen, received by the Central Government on 16/07/2015.

[No. L-41011/19/2014-IR(B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW**

PRESENT : RAKESH KUMAR, Presiding Officer

I.D. NO. 17/2014

REF. No. L-41011/19/2014-IR(B-I) dated: 19.03.2014

BETWEEN

Anchal Sangthan Secretary
 Rail Sevak Sangh
 C/o Shri D.P. Awasthi
 49, Tilak Nagar,
 Lucknow
 (Espousing cause of Sri Saheb Charan)

AND

1. Sr. Divisional Personnel Officer
 North Eastern Railway
 DRM Officer, Ashok Marg
 Lucknow.
2. The Chief Medical Superintendent
 North Eastern Railway
 Gonda (UP)

AWARD

1. By order No. L-41011/19/2014-IR(B-I) dated 19.03.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sangthan Secretary, Rail Sevak Sangh, C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & The Chief Medical Superintendent, North Eastern Railway, Gonda (UP) for adjudication.

2. The reference under adjudication is:

“क्या पूर्वोत्तर रेल प्रशासन, लखनऊ व गोंडा द्वारा श्री साहेब चरन पुत्र श्री संतराम, सफाईवाला को पुरानी पेंशन ने देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”

3. On Receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 22.05.2014 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filling of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 08.05.2015.

5. On 08.05.2015, Shri D.P. Awasthi, Secretary of the workman's union was present whereas the opposite parties were represented by Shri Upendera Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-5, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern

Railway, Lucknow, enclosing circular No. 2012/F(E)III/I(1)/2 dated 29.10.2014 of the Railway Board. The management in letter M- 5, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi vide their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2004 may be covered under Old Pension Scheme.

7. A copy of the M-5 was furnished to the workman's union. The authorized representative of the workman's union sought time to consult the workman; and accordingly, the case was taken up on 19.06.2015 at Lok Adalat. The Authorised representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-5 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settled; and made an endorsement thereupon as under:

"Since the relief claimed by the Union has been accepted by the opposite parties, the further proceeding of case may kindly be dropped."

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the railway has granted the same vide circular 2012/F(E)III/I(1)/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled; and no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

9. Award as above.

Lucknow, 06th July, 2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1493.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर पूर्व रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 18/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-41011/20/2014-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th July, 2015

S.O. 1493.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management

of North Eastern Railway and their workmen, received by the Central Government on 16/07/2015.

[No. L-41011/20/2014-IR (B-1)]
SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT LUCKNOW

PRESENT : SHRI RAKESH KUMAR, Presiding Officer

I.D. No. 18/2014

Ref. No. L-41011/20/2014-IR (B-I) dated: 31.03.2014

BETWEEN

Anchal Sanghthan Secretary
Rail Sevak Sangh
C/o Shri D.P. Awasthi
49, Tilak Nagar
Lucknow.

(Espousing cause of Shri Parmatma & Others)

AND

1. Sr. Divisional Personnel Officer
North Eastern Railway
DRM Office, Ashok Marg,
Lucknow.
2. The Chief Medical Superintendent
North Eastern Railway
Gonda (UP)

AWARD

1. By order No. L-41011/20/2014-IR (B-I) dated: 31.03.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sanghthan Secretary, Rail Sevak Sangh, C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Chief Medical Superintendent, North Eastern Railway, Gonda (UP) for adjudication.

2. The reference under adjudication is:

“क्या पूर्वोत्तर रेल प्रशासन, लखनऊ व गोंडा द्वारा श्री परमात्मा शर्मा पुत्र श्री बच्चू लाल, हरीश चन्द्र, छोटे लाल एवं रामेश्वर, सफाईवाला को पुरानी पेंशन न देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं, तो कामगार किस राहत को पाने का हकदार है?”

3. On receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 22.05.2014 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filing of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 08.05.2015.

5. On 08.05.2015, Shri D.P. Awasthi Secretary of the workman's union was present whereas the opposite parties were represented by Shri Upendera Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-5, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern Railway, Lucknow, enclosing circular No. 2012/F(E)III/I/2 dated 29.10.2014 of the Railway Board. The management in letter M-5, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi *vide* their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2004 may be covered under Old Pension Scheme.

7. A copy of the M-5 was furnished to the workman's union. The authorized representative of the workman's union sought time to consult the workman; and accordingly, the case was taken up on 19.06.2015 at Lok Adalat. The Authorized representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-5 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settled; and made an endorsement thereupon as under:

"Since the relief claimed by the Union has been accepted by the Rly. management, the further proceeding of case may kindly be dropped."

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the railway has granted the same *vide* circular 2012/F(E)III/I/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled; and no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

9. Award as above.

Lucknow, 06th July, 2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1494.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर पूर्व रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 20/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-41011/22/2014-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th July, 2015

S.O. 1494.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of North Eastern Railway and their workmen, received by the Central Government on 16/07/2015.

[No. L-41011/22/2014-IR (B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT LUCKNOW

PRESENT : RAKESH KUMAR, Presiding Officer

I.D. No. 20/2014

Ref. No. L-41011/22/2014-IR (B-I) dated: 31.03.2014

BETWEEN

Anchal Sanghthan Secretary
Rail Sevak Sangh
C/o Shri D.P. Awasthi
49, Tilak Nagar
Lucknow.

(Espousing cause of Shri Sai Riyz Ali)

AND

1. Sr. Divisional Personnel Officer
North Eastern Railway
DRM Office, Ashok Marg,
Lucknow.
2. The Chief Medical Superintendent
North Eastern Railway
Gonda (UP)

AWARD

1. By order No. L-41011/22/2014-IR (B-I) dated: 31.03.2014 the Central Government in the Ministry of Labour,

New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sanghthan Secretary, Rail Sevak Sangh, C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Chief Medical Superintendent, North Eastern Railway, Gonda (UP) for adjudication.

2. The reference under adjudication is:

“क्या पूर्वोत्तर रेल प्रशासन, लखनऊ व गोंडा द्वारा श्री रियाज़ पुत्र श्री फैजुल, सफाईवाला को पुरानी पेंशन न देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं, तो कामगार किस राहत को पाने का हकदार है?”

3. On receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 22.05.2014 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filing of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 08.05.2015.

5. On 08.05.2015, Shri D.P. Awasthi Secretary of the workman's union was present whereas the opposite parties were represented by Shri Upendra Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-7, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern Railway, Lucknow, enclosing circular No. 2012/F(E)III/I/2 dated 29.10.2014 of the Railway Board. The management in letter M-7, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi vide their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2004 may be covered under Old Pension Scheme.

7. A copy of the M-7 was furnished to the workman's union. The authorized representative of the workman's union sought time to consult the workman; and accordingly, the case was taken up on 19.06.2015 at Lok Adalat. The Authorized representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-7 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settled; and made an endorsement thereupon as under:

"Since the relief claimed by the Union has been accepted by the Rly. management, the further proceeding of case may kindly be dropped."

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the railway has granted the same *vide* circular 2012/F(E)III/(I)/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled; and no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

9. Award as above.
Lucknow, 06th July, 2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1495.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर पूर्व रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 19/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-41011/21/2014-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th July, 2015

S.O. 1495.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of North Eastern Railway and their workmen, received by the Central Government on 16/07/2015.

[No. L-41011/21/2014-IR (B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT LUCKNOW

PRESENT : SHRI RAKESH KUMAR, Presiding Officer

I.D. No. 19/2014

Ref. No. L-41011/21/2014-IR (B-I) dated: 31.03.2014

BETWEEN

Anchal Sanghthan Secretary
Rail Sevak Sangh
C/o Shri D.P. Awasthi
49, Tilak Nagar
Lucknow.

(Espousing cause of Shri Vipat)

AND

1. Sr. Divisional Personnel Officer
North Eastern Railway
DRM Office, Ashok Marg,
Lucknow.
2. The Chief Medical Superintendent
North Eastern Railway
Gonda (UP)

AWARD

1. By order No. L-41011/21/2014-IR (B-I) dated: 31.03.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sanghthan Secretary, Rail Sevak Sangh, C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Chief Medical Superintendent, North Eastern Railway, Gonda (UP) for adjudication.

2. The reference under adjudication is:

“क्या पूर्वोत्तर रेल प्रशासन, लखनऊ व गोंडा द्वारा श्री विपत पुत्र श्री हरी प्रसाद, सफाईवाला को पुरानी पेंशन न देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं, तो कामगार किस राहत को पाने का हकदार है?”

3. On receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 22.05.2014 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filing of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 08.05.2015.

5. On 08.05.2015, Shri D.P. Awasthi Secretary of the workman's union was present whereas the opposite parties were represented by Shri Upendera Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-5, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern Railway, Lucknow, enclosing circular No. 2012/F(E)III/I/2 dated 29.10.2014 of the Railway Board. The management in letter M-5, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi *vide* their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2004 may be covered under Old Pension Scheme.

7. A copy of the M-5 was furnished to the workman's union. The authorized representative of the workman's union sought time to consult the workman; and accordingly, the case was taken up on 19.06.2015 at Lok Adalat. The Authorized representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-5 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settled; and made an endorsement thereupon as under:

"Since the relief claimed by the Union has been accepted by the Rly. management, the further proceeding of case may kindly be dropped."

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the railway has granted the same *vide* circular 2012/F(E)III/I/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled; and no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

9. Award as above.
Lucknow, 06th July, 2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1496.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर पूर्व रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 21/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-41011/23/2014-आई आर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th July, 2015

S.O. 1496.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2014) of the Cent.

Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of North Eastern Railway and their workmen, received by the Central Government on 16/07/2015.

[No. L-41011/23/2014-IR (B-1)]

SUMATI SAKLANI, Section Officer.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT : SHRI RAKESH KUMAR
Presiding Officer

I.D. No. 21/2014

Ref. No. L-41011/23/2014-IR (B-I) dated: 31.03.2014

BETWEEN

Anchal Sangthan Secretary
Rail Sevak Sangh
C/o Shri D.P. Awasthi
49, Tilak Nagar
Lucknow.

(Espousing cause of Shri Ramdeen)

AND

1. Sr. Divisional Personnel Officer
North Eastern Railway
DRM Office, Ashok Marg,
Lucknow. I.D. No. 21/2014.
2. The Chief Medical Superintendent
North Eastern Railway
Gonda (UP)

AWARD

1. By order No. L-41011/23/2014-IR (B-I) dated: 31.03.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sangthan Secretary, Rail Sevak Sangh, C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Chief Medical Superintendent, North Eastern Railway, Gonda (UP) for adjudication.

2. The reference under adjudication is:

“क्या पूर्वोत्तर रेल प्रशासन, लखनऊ व गोंडा द्वारा श्री रामदीन, पुत्र श्री पलटन, सफाईवाला को पुरानी पेंशन न देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं, तो कामगार किस राहत को पाने का हकदार है?”

3. On receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 22.05.2014 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filing of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 08.05.2015.

5. On 08.05.2015, Shri D.P. Awasthi Secretary of the workman's union was present whereas the opposite parties were represented by Shri Upendera Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-3, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern Railway, Lucknow, enclosing circular No. 2012/F(E)III/I/2 dated 29.10.2014 of the Railway Board. The management in letter M-3, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi vide their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2004 may be covered under Old Pension Scheme.

7. A copy of the M-3 was furnished to the workman's union. The authorized representative of the workman's union sought time to consult the workman; and accordingly, the case was taken up on 19.06.2015 at Lok Adalat. The Authorized representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-3 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settled; and made an endorsement thereupon as under:

“Since the relief claimed by the Union has been accepted by the Rly. management, the further proceeding of case may kindly be dropped”

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the railway has granted the same vide circular 2012/F(E)III/(I)/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled; and no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

9. Award as above.
Lucknow, 06th July, 2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1497.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन संवर्द्ध के नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 39/10) को प्रकाशित करती है जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-41012/28/2009-आईआर(बी. 1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, 16th July, 2015

S.O. 1497.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 39/10) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No.-II, Delhi as shown in the Annexure in the industrial dispute between the management of Northern Railway and their workman, received by the Central Government on 16/07/2015.

[No. L-41012/28/2009-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT-II.

DELHI

Present: SHRI HARBANSH KUMAR SAXENA

ID. No. 39/10

Shri Sukhbir Singh, S/o Sri Rishal Singh,
R/o T-324, Baljeet Nagar,
New Delhi.

Versus

1. The General Manager.
Northern Railway.
Baroda House.
New Delhi-110001
2. The Deputy Chief Engineer (Construction).
Northern Railway.
Mahabad Khan Road.
Tilak Bridge.
New Delhi.

AWARD

The Central Government in the Ministry of Labour vide Notification No. L-41012/28/2009 IR(B-I) dated 18.11.2010 referred the following Industrial Dispute to this tribunal for adjudication:

“Whether the action of the management of Northern

Railway through General Manager, Baroda House, New Delhi and the Deputy Chief Engineer (construction), Northern Railway, Tilak Bridge, New Delhi in terminating services of S. Sukhbir Singh. S/o Sh. Rishal Singh, Ex-Chowkidar is justified? What relief the concerned workman is entitled to?

On 25.11.2010 reference was received in this tribunal. Which was register as I.D. No. 39/10 and claimant was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 01.02.2011. Wherein he prayed as follows:—

In view of the above facts and circumstances, it is therefore most respectfully prayed to the Hon'ble Adjudicating Court may kindly be consider the matter of enquiry which is against the rule of natural justice and direct the management to grant *ex-gratia* amount to the workman in lieu of continuity of service and in lieu of full back wages *w.e.f.* 10.01.2007 as the order of removal is illegal un-natural and against the rule of natural justice. The workman is becoming over age.

Against Statement of Claim Management filed Written Statement on 04.04.2011. Wherein management prayed as follows:—

It is therefore most respectfully prayed that in the facts and circumstances as mentioned above the statement of the claim of the workman may kindly be rejected.

Any other or further order(s) which this Hon'ble Tribunal deems fit and proper in the facts and circumstances may also be passed in favour of management against the workman.

Rejoinder or Reply of the written statement on the behalf of the workman was filed on 20.12.2011. Wherein he prayed as follows:—

In view of facts, as mentioned above the prayer para of the claim statement of workman is true and lawful and the same kindly be reiterated as correct in the interest of justice.

On the basis of pleadings following issues have been framed by Ld. Predecessor on 22.03.2012:—

1. Whether the departmental enquiry conducted in this case was legal, just and fair and was not in violation of the principles of natural justice. If not, what directions are called for in this case?

2. As per the reference sent by the Govt. of India to this Tribunal in this case.

3. Relief.

Workman in support of his case filed his affidavit on 19.02.2013.

Workman tendered his affidavit on 09.05.2013 and he was partly cross-examined on same day.

His statement of tendering of affidavit and partly cross-examination is as follows:—

I tender my affidavit as evidence which is Ex. WWI/A. Alongwith this affidavit, I rely on representations dated 13.12.2006, 30.04.2007, 27.06.2007, charge sheet dated 06.12.2007 and order dated 04.12.2008, which documents are Ex. WW1/1 to Ex. WW1/5. These documents may be read alongwith my affidavit.

XXXX: By Sh. Neeraj Kumar, Ld. A/R for the management.

It is correct that the property which was watched by me as a part of my duty was worth about Rs. 7 crores. I intimated my office, about my absence from my duty from 15.08.1991 to 02.11.1993, since I fell ill. I had sent an application in that regard in August 1991 through my brother. It was mentioned in that application that I was down with fever and request for leave for 15 days was made. My brother told that my application for leave was acceptable by the office. Thereafter, I had not moved any application. Though I was duty bound to sent an application for leave, but I had not sent any other application. On account of fever, my brain went out of order. I have no documents in my possession to prove that my brain went out of order. Further cross-examination is deferred since Sh. Neeraj Kumar wants to put certain documents to the witness, which are not in his possession now.

Workman further partly cross-examined on 19.11.2013. His partly cross—examination is as follows:—

Q. When your order of Disciplinary Authority was received by you?

Ans. I do not know the date of receiving the order.

Q. Through which medium that order was received by you?

Ans. Personally as well as through post.

Q. Whether you filed appeal against aforesaid order?

Ans. Yes.

Q. Whether appeal has been decided or pending?

Ans. Pending.

Q. In which court appeal is pending?

Ans. I am not aware of it.

Workman further cross-examined on 28.01.2014. His further cross-examination is as follows:—

Q. Whether you remained absent from duties 05.10.2006 to 16.10.2006 without any intimation to his superior?

Ans. No.

Q. For aforesaid absence you was penalized.

Ans. No.

Q. Whether you gave reply to Railway Authority for aforesaid penalty.

Ans. No.

Q. Whether memorandum which is shown to you was given to you.

Ans. No.

Q. Whether shown memorandum contains signature or receiving the memorandum?

Ans. No.

Observation copies of memorandum has been filed by A/R of the management after showing list to the witness.

Q. Whether reply which is shown to you was given by you in response to pending order (memorandum dated 16.10.2006)?

Ans. May it be but I am not remembering. It is incorrect to suggest that department was not satisfied with my reply and penalized me.

Q. Whether copy of minor penalty was provide to you and you got it receipt?

Ans. No.

After showing the aforesaid paper Ld. A/R for the management filed photocopy of it.

Q. Whether you gave representation to department for your regularization?

Ans. I am not remembering at present.

Q. Whether you further remained absent since 10.01.2007 to 04.12.2008?

Ans. I was not remained absent. I was sent to Rohtak by department and Brijwasan.

Q. Whether action against you was taken by department on the ground of aforesaid action?

Ans. Department has not communicated to me of and officers of the department gives me direction to confuse me.

Q. Whether department prior to taken action sent letter dtd. 13.06.2007, 29.06.2007 and 03.07.2007 through regd. post?

Ans. No such letters were received by me.

Observation:—

Receipt of Regd. Post has not been filed by management so far. Nor AD has been filed by management so far.

Q. Why you have not joined the service after receiving the letters from the department.?

Ans. Department has not permitted me to join the job and make me be fool for about 2 years.

Q. Whether you made any complaints to Superiors?

Ans. No.

Q. Whether chargesheet was submitted by department to you and its copy was given to you?

Ans. Yes.

Q. Whether Inquiry Officer was appointed to conduct Inquiry against you?

Ans. I do not know.

Q. Whether you participated in that Inquiry?

Ans. I have not participated as I was not informed. Subsequently stated that I participated and gave answers to the questions subsequently signed my statement.

Q. Opportunity to you was provided to engage any person on your behalf to look after your defence?

Ans. Yes.

Q. Whether sufficient opportunity to engage a person or Lawyer was given to you but inspite of that opportunity but you have not any person.

Ans. As my daughter was illing and expenses being incurred on her illness so I couldnot engage a lawyer.

Q. Whether free legal aid could be provided to me?

Ans. I do not know such provision.

I have sought time in written even then time was not granted to me by department to took after the defence. No copy of such application has been filed in this tribunal. Nor such copy is available with me. I cannot show in future as it was made in a single piece.

Q. Whether after conclusion of Inquiry. Inquiry officer submitted Inquiry paper against you and copy of which was supplied to you.

Ans. No.

Q. Whether aforesaid Inquiry Report was sent to you. Through section Engineer on 16.09.2008?

Ans. No.

Q. Whether show cause notice to propose sentence was given to you?

Ans. No.

Q. Whether you made sign of receiving to aforesaid show cause notice.

Ans. I am not remembering.

Q. When you have not filed reply to show cause notice then punishing authority imposed punishment of removal?

Ans. Yes.

Q. Whether you was provided an opportunity of filing appeal against order of removal before Chief Engineer within 45 days?

Ans. Yes.

I filed appeal but result has not been communicated copy of memorandum of appeal has not been filed by me in this court.

Q. Whether you enquired about disposal of appeal, pendency of appeal etc.

Ans. Nothing could be traced out.

Q. Whether removal order in accordance with Law?

Ans. No.

It is incorrect to suggest that removal order is just fair and proper.

Management in support of its case filed affidavit of MW1 Sh. R.S, Ujiayan on 9.5.2014.

Management tendered its affidavit on 10.6.2014. His statement of tendering of affidavit is as follows:

I tender in evidence my affidavit Exh. MW1/A which bears my signature at point 'A' and 'B'. I rely upon my documents Ex. MW1/A to Ex. MW1/H.

MW1 was cross-examined on 28.10.2014.

His cross-examination is as follows:—

XXXXXX: By Sh. S.K. Gupta, Ld. A/R for the workman.

Q1. Whether you have letter through which you was appointed inquiry officer?

A. No, as it was not needed at all.

Affidavit which has been filed by me has been prepare by my Ld. A/R on my directions.

Q2. As per contents of para 4 of your affidavit workman remained absent for period of 829 days. Whether in this respect inquiry has been launched against workman?

A. It is not in my knowledge whether any inquiry prior to inquiry which was conducted by me was initiated against workman.

Q3. Whether contents of para 5 of your affidavit are correct?

A. Yes.

Q4. Whether you conducted inquiry in respect of default of workman in respect of his absence since 5.10.2006 to 16.10.2006?

Ans. No.

I was appointed inquiry officer to conduct the inquiry of workman on the point of misconduct in not resuming duty after temporary transfer to Rohtak.

After aforesaid misconduct an conclusion of aforesaid inquiry disciplinary authority confirmed the report of inquiry officer and consequently dismissed the workman. So no question of transfer from Rohtak to other place arises.

It is incorrect to suggest that workman was transferred to Brijwasan from Rohtak. In Inquiry proceedings workman participated as well as remained absent on certain dates.

Whenever workman remains absent in inquiry proceeding I give notice to workman to come and participate inquiry proceedings on next date.

Copies of notices sent to workman to attend and participate on further proceedings of inquiry is in the record of inquiry proceedings.

Photocopies of postal receipts has been attest with the inquiry record which is on court file.

Photocopy of envelope bearing date 4.12.08. During inquiry workman expressed his desire to conduct his case himself. Although he was asked whether he wants to be represented by Ld. A/R.

I have submitted my report after completion of inquiry on 2.9.2008. I submitted my inquiry report to disciplinary authority. I never been appointed inquiry officer in any other case.

It is incorrect to suggest that I submitted inquiry report under pressure of management.

It is incorrect to suggest that I am deposing falsely to justify my fabricated inquiry report.

On the date of arguments none turn up on behalf of claimant. So I heard the arguments of Ld. A/R for the management.

Ld. A/R for Management stressed that departmental inquiry conducted against workman was legal, just and fair and so it is not in violation of principles of natural justice.

He also pointed out that Management proved its case as pleaded in written statement on the point of fairness etc. departmental inquiry.

Moreover, Workman and his witness could not prove the case of workman. In this background he stressed that there is no material on record to question of validity of departmental inquiry. So no direction to management are called for in the instant case.

On the date of argument I have permitted the Ld. A/R as well as workman to argue before passing of award which has been reserved but till now none on behalf of workman came forward to put forth the arguments of the workman.

In the light of contentions raised on behalf of Ld. A/R for the management I am perusing the pleadings of claim statement, written statement, rejoinder as well as evidence of the parties on record.

On the basis of evidence issue No. 1 which is relating to Departmental Inquiry is to be decided. Which is the only material issue in the instant case. Inwant of proper reliable and credible evidence of workman as well as credible rebuttal evidence of defendant. There is no option to this Tribunal to hold that Departmental Inquiry conducted against workman is legal, just and fair and there is no violation of principles of natural justice.

Moreover on the basis of Inquiry Report disciplinary authority passed the punishment of removal of workman. Against which workman alleged that he filed appeal but not filed order of appellate authority to show that appeal was allowed.

Moreover management alleged that his appeal has been dismissed so in the instant case wherein workman remain absent for about 829 days is not entitled for reduction of aforesaid penalty of removal from service.

Therefore, no direction of management in this respect is required to be passed but there is difference between dismissal and removal. So, Workman is entitled to dues which have accrued to him prior to his removal and dues which are admittedly have not been given by management to workman. Issue No. 1 is liable to be decided accordingly.

Which is accordingly decided.

Issue No. 2 framed by my Ld. Predecessor is cover up by issue no. 1. So, it needs no decision. So far issue no. 3 is concerned which is relating to relief as I have already discussed while deciding issue no. 1 that workman is entitled to benefit accrued to workman prior to removal. So, workman is entitled to this relief and management is duty bound to pay the arrears and dues prior to removal of workman on 4.12.2008.

Reference is accordingly decided partly in favour of workman and partly in favour of management. Award is accordingly passed. Management is directed to pay all dues to workman which accrued to him prior his removal of service *i.e.* from 4.12.2008.

Management is further directed to pay all dues within two months after publication of award alongwith 6% interest p.a. from the date of claim petition till payment. In case management fails to pay aforesaid amount of workman than it has to pay interest 9% p.a. instead of 6% p.a. on aforesaid due amount of workman.

Award is accordingly passed.

HARBANSH KUMAR SAXENA, Presiding Officer

Dated 25.06.2015

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1498.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न. 1 धनबाद के पंचाट (संदर्भ संख्या 85/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं एल-20012/77/2014-1 आईआर(सी-1)]

एम.के. सिंह, अनुभाग अधिकारी

New Delhi, the 16th July, 2015

S.O. 1498.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 85/2014) of the Central. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 16/07/2015.

[No. L-20012/77/2014-IR(C-1)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 85 of 2014

Employer in relation to the management of Simlabahal Colliery, P.B. Area, M/s. BCCL

And

Their workman

Present:-Sri R.K. SARAN, Presiding Officer

Appearances:

For the Employers: Sri N.M. Kumar, Advocate

For the Workman: Sri R.R. Ram, Rep

State-Jharkhand. Industry:-Coal

Dated 25.6.2015

AWARD

By order No. L-20012/77/2014-IR(C-I) dated 05/09/2014 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Simlabahal Colliery Under P.B. Area M/s. BCCL in dismissing Sri Bablu Bauri EX-M/Loader from the service *vide* letter dated 14/18/07.2003 is fair and justified? To what relief concerned workman is entitled?"

2. The case is received from the Ministry of Labour on 16.09.2014 After receipt of reference, both parties are noticed. The Sponsoring Union files their written statement on 21.11.2014. And the management files their written statement-cum-rejoinder on 26.03.2015.

3. The point involved in the reference is that the workman has been dismissed from his services for long absenteeism.

4. The workman referred in the case says, he worked under management for one year and as he remained absent continuously, he was dismissed from service.

5. The workman appeared and submits that he would not repeat the same. But the management disputes the identity of the workman. However the workman without filling any company I.D. card, submitted that as he worked for one year, he was not given I.D. card. But he files salary slip. Management could not file it service exerts.

6. The workman files the pay slip issued to him by management and says that I.D. Card of the company was not issued to him. If there is doubt regarding identity. Management through his own agency or any other agency, get him identified and to take him in job as a fresh employee, and to keep him under probation for two years. But the management ought not delay on the ground of identity. The direction of the Tribunal merely on the pretext of identification.

This is my award.

R.K. SARAN, Presiding Officer.

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1499.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, न. 1 धनबाद के पंचाट (संदर्भ संख्या 12/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-20012/189/1992-आईआर(सी-1)]

एम.के. सिंह, अनुभाग अधिकारी

New Delhi, the 16th July, 2015

S.O. 1499.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/1993) of the Central. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial

dispute between the management of M/s. CCL and their workmen, received by the Central Government on 16/07/2015.

[No. L-20012/189/1992-IR(C-1)]

M.K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act., 1947

Reference No. 12/1993

Employer in relation to the management of M/s. C.C.L.

And

Their workmen

Present: SRIR.K. SARAN, Presiding Officer

Appearances:

For the Employers: Sri D.K. Verma Advocated

For the Workman: None

State-Jharkhand. Industry-Coal

Dated 29.6.2015

AWARD

By order No. L-20012/189/1992-IR(C-I) dated 15/01/1993 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act., 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of M/s. Central Coalfield Ltd., is justified in not paying overtime at double the rate of normal wages for working beyond working hours, Sunday, holidays and thrice the wages working on paid holidays to S./Shri S.C. Jha, R.N. Pandey, P. Roy, K. Tirkey, Hiralal, M. Thankappan, M.M. Singh and A. Akhtar posted to H.F. branch of Telecommunication of CCL Hqrs? If not, to what relief the workmen are entitled and from what date?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently on behalf of the workman, Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No. Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer.

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1500.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 36/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-20012/386/1991-आईआर(सी-1)]

एम.के. सिंह, अनुभाग अधिकारी

New Delhi, 16th July, 2015

S.O. 1500.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 36/1993) of the Central. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 16/07/2015.

[No. L-20012/386/1991-IR(C-1)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 36/1993

Employer in relation to the management of Chaitudih Colliery, M/s. BCCL

And

Their workman

Present: SRI R.K. SARAN,

Presiding Officer

Appearances:

For the Employers: None

For the Workman: None

State-Jharkhand. Industry:-Coal

Dated 29.6.2015

AWARD

By order No. L-20012/386/1999-IR-(C-I) dated 04/01/1993 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act., 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of Janta Mazdoor Sangh for regularization of Shri Shiv Balak Paswan and 31 others (as per list enclosed) on the roll of BCCL is justified? If so, to what relief the workmen are entitled."

1. Shri Shiv Balak Paswan
2. Shri Baldeo Yadav
3. Heera Ram
4. Rajendra Prasad Singh
5. Kapil Paswan
6. Abay Kumar Pathak
7. No. 1 Sheojee Singh
8. Binesh Singh
9. Rabindra Saw
10. Anant Kumar
11. Ram Raj Yadav
12. Kishori Nonia
13. Subedar Paswan
13. Ram Pd. Ram
15. Rajkumar Singh
16. No. 2 Sheojee Singh
17. Sineshwar Paswan
18. Satyanarayan Yadav
19. Jamdar Paswan
20. Naresh Sharma
21. Sanjay Kumar Singh
22. Naredh Dusadh
23. Gopal Singh
24. Sudhir Kumar Burma
25. Sree Kant Singh
26. Ram Bachan Paswan
27. Surajdeo Singh
28. Paras Singh
29. Madhav Singh
30. Bhagwan Thakur
31. Rajkumar Rai
32. Lalim Ram

2. After receipt of the reference both parties are noticed. But appearing for certain dates none appears subsequently.

Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1501.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गुवाहटी के पंचाट (संदर्भ संख्या 13/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-07-2015 को प्राप्त हुआ था।

[सं एल-12011/65/2014-आईआर(बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th July, 2015

S.O. 1501.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2014) of the Central. Govt. Indus. Tribunal-cum-Labour Court Guwahati as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen, received by the Central Government on 16-07-2015.

[No. L-12011/65/2014-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present: SHRIL.C. DEY, M.A., L.L.B.
Presiding Officer,
CGIT-cum-Labour Court, Guwahati,

Ref. Case No. 13 of 2014

In the matter of an industrial Dispute between:

The Management of Union Bank of India, Guwahati, Assam

Vrs.

The General Secretary, Union Bank Employees Union (NER), Guwahati, Assam

APPEARANCES:

For the Union : Mr. J. Chakrabarty, Vice-President,
Mr. S. Haloi, General Secretary,
of Union Bank Employees Union
(NER)
Guwahati,

For the

Management

Mr. V. Murugan,

Senior Manager (HR).

Union Bank of India, Regional Office,

Chandmari, Guwahati.

AWARD

1. The Reference has been initiated on an Industrial Dispute raised by the General Secretary, Union Bank Employees Union (NER) against the Management of Union Bank of India, Regional Office, Chandmari, for appointment of Armed Security Guard through Sainik Board instead of out sourcing, which was referred by the Ministry of Labour for adjudication *vide* their Order No. L-12011/65/2014-IR (B-II) dated 25/27.08.2014. The Schedule of this reference is as under:

SCHEDULE

"Whether the claim of the Union Bank Employees Union (NER) Guwahati for regular appointment of Arms Security Guard through Sainik Board instead of out sourcing as contemplated by the Union Bank of India Management in violating the terms and condition of the bipartite agreement is legal & justified? What relief the said Union is entitled to?"

The dispute has been raised by the Union Bank Employees Union (NER), Guwahati which is one of the members of the Bank Employees Federation of India. The workmen concerned are both the clerical and subordinate staff working in Union Bank of India in the State of Assam whose service conditions are governed by the Bipartite Settlements which are Industry level settlement in the Banking Industry signed between the Indian Bank Association (representing Banks) and Apex level Unions of workmen duly registered u/s 2(p) and Section 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of the Industrial Dispute (Central) Rules, 1957.

2. On receipt of the order from the Ministry of Labour, Government of India, New Delhi, this reference case was registered and notices were issued by Registered Post to the parties concerned directing them to appear in the Court on the date fixed and to file their written statement along with the relevant documents in support of their claim. Accordingly both the parties appeared and submitted their respective claim statement/written statement.

3. The case of the Union, in nutshell, is that on the 2nd June, 2005 the 8th Bipartite Settlement was signed between Indian Banks Association on behalf of the employer Banks and the Bank Employees Federation of India, along with other 4 Unions on behalf of the workmen, and the present Union being affiliated by Bank Employees Federation of India, is a party to the said settlement.

In Clause-31(h) of the said settlement it was agreed as "while it shall be the banks' endeavour to retain/re-skill staff and to develop in-house competencies, they may outsource IT and its related activities in respect of the specialized area where in-house capability is not available". In terms of the said provision the Bank can out source only IT and its related activities in respect of specialized areas and that too where in-house capability is not available. The Settlement has clearly established the fact that the Management has no authority whatsoever to outsource any other activity of the Bank besides IT and its related activities. In the 9th Bipartite Settlement (current one) signed on 27.4.2010 wherein no further authority has been given to the Management to outsource any other job beyond what was agreed to in the 8th Bipartite Settlement, and even the word "outsource" has not find its place through out the current settlement. The Union stated that the protection of customer's money and valuable in Branch is a primary job in the Bank, and Arms Guards permanently employed in the Bank are performing the jobs with excellence and at times even at the risk of their lives. The Management identified 10 vacancies of permanent Armed Guards for Dibrugarh, Duliajan, G.S. Road, Hatigaon, Hijugiri, L.N.B. Road, Paltan Bazar, Silchar, Barpeta Road and Santipur Branches. While the Management *vide* its Circular No. ROG:HRM:1546/2011 dated 20.10.2011 decided the jobs of the Armed Guards to be outsourced. On being aggrieved with the said decision of the Management the Union through its letter dated 11.11.2011 lodged its strong protest against violation of the provision of the Bipartite Settlement and requested the Management for recruitment of the Bank's permanent Arms Guards through Sainik Board but there was no response. As a result this Industrial Dispute was raised and the same was ended in failure. Some important facts came up during conciliation proceeding. On 11.11.2013 the Management informed that they were trying to obtain approval from the competent authority for recruitment of the Armed Guards (not outsourced), and on 23.12.2013 the Management informed that they were making efforts to obtain permission from the Central Office for amicable settlement of the dispute and they also submitted a letter dated 3.12.2013 regarding filling up of Armed Guards by which permission was sought for recruitment of Armed Guard by adopting procedure of direct recruitment instead of outsourcing through private agency. Further during the conciliation held on 23.6.2014 the Union submitted a copy of the letter written by the Bank on 03.02.2014 to the National Deputy Chairman, National Ex-Serviceman Coordination Committee wherein the Bank informed that Armed Guards were recruited from ex-servicemen candidates only through Rajya Sainik Kalyan and Punarnivas Karyalaya Board. They further informed that in order to meet sudden needs of posting guards in vulnerable branches and also for temporary phase, they outsourced Armed Guards.

The Union alleged that the outsourcing job of Armed Guard does not provide any better facility to the customers, and it will not help in generating permanent employment in the Bank where many vacancies are still lying unfilled. Rather, the adoption of outsourcing route the posts of Armed Guards would permanently be abolished. Thus the Management arbitrarily wanted to apply its prerogative to violate the provisions of Section 2(p) and Section 18(1) of the Industrial Disputes Act, 1947 read with Rules 58 of the Industrial Disputes (Central) Rules, 1957. Thus the action of the Management of outsourcing the job of permanent Armed Guards is a clear violation of registered settlement and it attracts Section 29 of the Industrial Dispute Act, 1947. Hence, the Union prayed for passing an order for appropriate action against the Management u/s 29 of the I.D. Act, 1947 with direction to the Management to desist from resorting the outsourcing permanent jobs of the Armed Guards for maintaining sanctity of the Settlement and/or other orders as deem fit.

4. The Management by filing W.S. raised preliminary objection which goes to the root of the matter effecting the maintainability of the reference as well as the jurisdiction of this Tribunal to entertain the present reference, taking the following pleas:

- (i) That the reference does not constitute an industrial dispute u/s 2(k) of the I.D. Act and hence, the reference deserve to be rejected.
- (ii) That the workman have not shown it as a registered Trade Union under the provision of Trade Union Act, 1956, and whether the said registration is valid on the claim before this Tribunal.
- (iii) That the workmen have not shown whether under the terms of its registration or otherwise, it is entitled to organize/espouse any complaint.
- (iv) That the workman ought to have produced a copy of the Form A of the application for registration under Trade Union Act.
- (v) That the workman ought to have produced a copy of its constitution showing the number of its office bearer for managing its affairs and whether 50% of the said office bearers are the workmen employed in the management as required under Section 22 of the Trade Unions Act, 1926.
- (vi) That the workmen ought to have produced a copy of the extract of the minutes book and the minutes book of its managing Committee/General body in original to show that a decision was taken at such meeting and/or a resolution was passed to file the said complaint and that who has signed the same has been authorized/empowered to file such complaint and that who had signed the same has been authorized/empowered in that behalf.

- (vii) That the Union has not produced any document to show that the workmen referred in the representation are the members of the Union and that these workmen have submitted application for Union membership or they have paid membership dues to the Union at the time or raising the dispute.

Further plea of the management is that the reference is bad for non joinder of necessary parties; and the appropriate government did not consider the stand of the management that the dispute is under consideration of the management bank in its Central Office at Mumbai and without waiting the final result of the Central Office the reference on the dispute for adjudication is prematured and this Tribunal has no jurisdiction as no industrial dispute existed or apprehended. Hence, the management prayed to frame and decide the preliminary issues as under:

- (i) Whether the demands as mentioned in the order of Schedule as raised on behalf of the workman who are not the member of the Union are justified?
- (ii) Whether the Union is registered Trade Union under the Union Act, 1926 and whether this registration is valid as on the date of raising the dispute and/or filing of the complaint or on the date of making the reference to this Industrial Tribunal?
- (iii) Whether the Union is entitled to organize and espouse the industrial dispute on behalf of the workmen?
- (iv) Whether as per Section 22 of the Trade Unions Act, 1926, 50% of the office bearer of the Union are persons employed under the management?
- (v) Whether the Constitution and/or by-laws of the Union permits its General Secretary to raise the demand?
- (vi) Whether any resolution has been adopted by the Executive Committee or the General Body of the Union authorizing or empowering the persons to espouse the cause of the workmen?
- (vii) Whether the reference is barred by limitation in view of the settlement which has already been expired.

The management contended that the reference made by the appropriate government without considering the provision of Industrial Dispute Act since it is not a industrial dispute within the meaning of the said Act and this Tribunal can not assume jurisdiction to adjudicate the alleged dispute. The management mentioned that the settlement was arrived at between the Indian Bank Association and their workmen represented by All India Bank Employees Association, National Confederation of Bank Employees';

Bank Employees' Federation of India; Indian National Bank Employees' Federation and National Organization of Bank Workers on 2.6.2005 under Section 2(p) and Section 18(1) of the Industrial Disputes (Central) Rules 1957 and there was provision in Clause 31(h) of the said Memorandum of Settlement that "while it be banks' endeavour to retain/re-skill staff and to develop in house competencies, they may outsource IT and its related activities in respect of specialized area where in house capability is not available", and the said Memorandum of Settlement was for a period of 5 years with effect from 01.11.2007. Since the said Settlement has already expired on 31.10.2012 and hence, the said Memorandum of Settlement is not inforce at present. It is added that the financial services business throughout the world the increasingly using third parties to carry out activities that the business themselves would normally have undertaken.

The Right/well-planned outsourcing can have a positive impact in terms of cost benefits, domain expertise and efficient delivery to the customer; and Technological advancement has transformed the banking sector into a high tech park for financial services and availability of the latest techno products. As such, effective outsourcing enables Banks to enhance product offering/diversify assets and revenues, access superior expertise and devote scarce human resources to core business and reduce costs. Furthermore, the Bank for international settlement has defined outsourcing as a regulated entity's (Bank) use of a third party (either an affiliated entity within a corporate group or an entity that is external to the corporate group) to perform activities on a continuing basis that would normally be undertaken by the regulated entity. The Reserve Bank of India has also retained the same definition of its final guideline issued on 3.11.2006 on outsourcing of financial services by banks and further clarified that the continuing basis would include agreement for a limited period. Thus the bank shall outsource selected financial activities with the objectives to reduce and control cost; to gain efficiency; to improve turnaround time and client servicing and to improve focus on core business. The Reserve Bank of India also, from time to time issued guidelines on Managing Risk and Code of Conduct in Outsourcing of financial services by Banks to provide direction and guidelines to bank to adopt sound and responsive risk management practices for effective oversight, due diligence and management of risk arising from such outsourcing activities. The Reserve Bank of India also issued guidelines asking the banks to put in place a comprehensive outsourcing policy duly approved by its Board. The management reiterated that the management of the Bank is trying to regulate the services of the persons who are placed for work in the Union Bank of India in North Eastern Region are trying to allot the work only to those outsourcing agency who are required to fulfill all the laws/regulations made thereunder from time to time and to

follow the same; and that the management shall rely and refer the outsourcing policy of 2012-13 issued by the authorities from time to time. It is contended by the management that the workmen should have settled the matter in a bipartite agreement with the management instead referring the matter to the appropriate government for adjudication; and that the local management has already taken up the matter with the Head Office of the Bank and the same is pending and no written communication from the Head Office have been initiated in this matter. As such, the matter already referred to the higher authority of the management Bank for fair adjudication and/or for justice the present reference may be kept pending till final disposal by the Head Office of the Union Bank of India. Under the above premises the management prayed to frame preliminary issue on the maintainability of the reference and if the preliminary issues are deciding against the management may be allowed to adduce their evidence on merit and pass such other order as deem fit.

5. The management denied all the pleas taken by the Union refuting their contention made in their W.S. The management also submitted that outsourcing of security guards being a policy matter and hence the Union has no right or authority to interfere with the policy matters of the Bank. Further the management by a letter dated 20.10.2011 intimated the existing Armed Guards to send their transfer application within 15 days *i.e.* on or before 5.11.2011 and that the transfer application for the branch would be considered as per seniority of the candidates as well as the date of transfer application. The management also requested to existing Armed Guards to send their request transfer for other branches as well apart from being mentioned branches if interested. Thus the management has not violated any of the provision of bipartite settlement since the engagement of Armed Guards either through Sainik Board or from outsourcing is not an Industrial Dispute.

6. The Union, on the other hand, by filing Addl. W.S. stated, *inter-alia* that the management filed their W.S. through the person against whom the notice of this Tribunal was served; that the contention of the management in their W.S. have not been admitted specifically and/or contrary to and not consistent with the Rules and Provision of the Bipartite Settlement; that this reference is on the matter of employment of Armed Guard and service condition of workmen which are decided in the Bipartite Settlement and hence, it is an Industrial Dispute; that the Union Bank Employees Union (NER) is a registered Trade Union under the provision of Trade Union Act, 1926 and its registration is valid till now *vide* No. 1403 and the Registration certificate can be produced on demand by this Tribunal; that more than 50% of the office bearers of the Union of the workmen are employed in the Bank; that it is a settled law that a third party is not entitled to challenge matter pertaining to the internal management of a trade Union *vide* 1969/LLJ 235

SC; that the contention of the management that the terms of the 8th Bipartite Settlement dated 2.6.2005 was upto 31.10.2007 is not correct, also the 9th Bipartite Settlement signed on 27.04.2010 has no further authority to the management to outsource any other job beyond what was agreed in the 8th Bipartite Settlement; and that the contention of the management made in paragraphs—11, 12, 13, 14, 15, 17 are not relevant.

On receipt of the claim statement of the W.S. submitted by the Union and the Management respectively, the reference was put up before Lok Adalat for amicable settlement but neither of the parties turned up. The Management although took the plea that the present reference is not maintainable and this Tribunal has no jurisdiction to adjudicate this dispute since it is not a industrial dispute, and hence, the management in their W.S. prayed for framing preliminary issue on the maintainability of the reference. But the Management did neither press to frame preliminary issue nor did adduce any evidence to prove the preliminary issues raised by them. As such, both the parties have been directed to adduced their evidence in support of their respective cases. However, the points raised by the management regarding framing of preliminary issues would be considered on merit.

7. In order to establish their case the Union examined one witness namely Sri Jagannath Chakrabarty, Vice President of the Union Bank Employees Union (NER), Guwahati, while the management declined to adduce any evidence. However, both the parties have submitted their written argument. Also they argued their respective case orally. Let me discuss the evidence of the Union along with the documents submitted by them.

According to the W.W.1, Sri Jagannath Chakrabarty, a Bipartite Settlement was reached between the Workmen Union' and Indian Banks Association (representing the Banks) on 2.6.2005, which was circulated by the management Bank through Staff Circular No. 5194 dated 23.6.2005 (marked as Exhibit-1, proved on admission by the management) including the Bipartite Settlement. In the said Settlement called the 8th Bipartite Settlement in Clause 31(h) it is mentioned that "while it shall be the banks endeavour to retain/re-skill staff and to develop in-house competencies, they may outsource IT and its related activities in respect of specialized area where in-house capability is not available". Similarly 9th Bipartite Settlement was signed on 27.4.2010 which was circulated by the management bank through their Staff Circular No. 5668 dated 26.5.2010 (marked as Exhibit-2, proved on admission by the management), wherein the provision of Clause 31(h) of the Settlement dated 2.6.2005 (Exhibit-1) has not been modified in any way whatsoever. Though these two Settlements clearly prohibited the Bank to outsource jobs/ activities other than IT related service, but the management *vide* their Circular No. ROG:HRM:/1546/2011 dated 20.10.2011 (Exhibit-3, proved on admission by the

management) declared that they were in the process to engage Armed Guards from outsourcing Agency in some Branches as mentioned in the said circular. Reacting to such action of the management, the union *vide* its letter dated 11.11.2011 (marked as Exhibit-4, proved on admission by the Management) drew the attention of the management that the said decision was against the terms of Bipartite Settlement and hence, they requested the management to abandon the move to out-source jobs of Armed Guards in view of the said settlement and recruit Armed Guards through District Sainik Board only for filling up the vacant posts. But no response from the management while the Union raised this Industrial Dispute before the ALC(C), Guwahati against the aforesaid action of the management. Accordingly the conciliation proceeding was held on 11.11.2013 wherein it was decided, *inter-alia*, that the management was trying to get approval for recruitment of Armed Guards (not outsourced) from the competent authority of the Bank (*vide* Exhibit-5, proved on admission by the management). On 23.12.2013 another conciliation was held in the office of the ALC (C), Guwahati wherein it was recorded, the representative of the management submitted *inter-alia*, that they were making efforts to obtain approval from the Central Office for amicable settlement on the dispute (*vide* Exhibit-6, proved on admission by the management). The W.W. 1 has also proved a copy of letter No. ROG:HRM:3101/2013 dated 03.12.2013 (*vide* Exhibit-6, proved on admission by the management wherein the management Bank at Guwahati wrote to the Central Office of the Bank at Mumbai for permitting to recruit Armed Guards to 8 Branches by adopting the procedures of direct recruitment instead of outsourcing through the Private Agency. The W.W. 1 also added that the last and final conciliation proceeding was held on 23.6.2014 in the Office of the ALC (C), Guwahati (*vide* Exhibit-7, proved on admission by the management). He further mentioned that the Central Management had taken a different stand from that of the same taken in this dispute which is clear from a communication dated 3.2.2014 made by the Bank to the National Dy. Chairman (*vide* Exhibit-7 (1); while the National Ex-Servicemen Co-ordination Committee and in the said letter the Central Management stated that they would recruit Armed Guards in the Bank from Ex-servicemen candidates through Rajya Sainik Kalyan and Punarnivas Karyalaya Board. The W.W. 1 again stated that in the conciliation proceeding the management, on the other hand, stated that the issue have been taken up with the Head Office of the Bank recommending for recruitment of Armed Guards through Sainik Board, however, the same has been pending and no written communication from the Head Office has been initiated in this matter. He again mentioned that in response to the request of Dy. CLC (C), Guwahati the management representative stated that there was no scope to consider the demand of the Union because their suggestion has not been approved by the Central Office of the Bank. On failure of the conciliation this reference was made by the appropriate Government.

The W.W. 1 also stated that it is a general rule of the Bank that the Armed Guards are to be posted in vulnerable branches for temporary phase only while in Exhibit-7(1) the Bank stated that they want to out-source Armed Guards in vulnerable branches for temporary phase only, but this decision of the bank is not consistent with the cause of the dispute since the management's decision to outsource Armed Guards from Private Agency is totally against the Bipartite Settlement marked as Exhibit-1 & Exhibit-2. As such, the action of the management as mentioned above is against the provision of industrial dispute Act, 1947. Accordingly the Union prayed for passing an Award resisting the management from resorting the outsourcing permanent jobs of Armed Guards for maintaining sanctity of the settlement.

During his cross examination the W.W. 1 did not agree that under any circumstances the job of Armed Guards which is very important for an institution like Bank being the custodian of public money should be outsourced through Private Agency. He also mentioned that the performance of the Bank's Armed Guards and that of outsourced Armed Guards are not the same, that apart, there is no provision for outsourcing Armed Guards as per the Settlement. The W.W. 1, on production of the document namely Circular letter No. SEC:BR: 375 dated 18.6.2013 issued by the Bank regarding outsourcing security guard, proved *vide* Exhibit-A, wherein the guidelines regarding outsourcing Armed Guards in para-12 & 13 have already been settled up in the Bipartite Settlement marked as Exhibit-1 & Exhibit-2.

8. On perusal of evidence of W.W. 1 along with the documents proved in the Court and the oral submission as well as written argument submitted by both the sides it appears that 2 Bipartite Settlements on wage revision and other service condition of service including outsourcing the service by the Bank have been signed by the Indian Bank's Association (in short IBA) on behalf of its member Banks and the workmen Unions, namely, 8th Bipartite Settlement dated 2.6.2005 and the 9th Bipartite Settlement dated 27.4.2010. In the aforesaid Bipartite Settlement dated 2.6.2005 at Para-31(h) it is clearly mentioned that it shall the Bank's endeavour to retain/re-skill staff and to develop in-house competencies, however they may outsource IT and its activities in respect of specialized areas where in-house capability is not available. The Bipartite Settlement dated 27.4.2010 arrived at between the Indian Banks' Association and various workmen Unions represented by All India Bank Employees Association, National Confederation of Bank Employees, Bank Employees Federation of India etc., expired on 31.10.2012, and thereafter no further settlement has yet been signed between the parties. But the provision of the said settlement dt. 27.4.2010 (Para-1) of the terms of Settlement (page 42 of Exhibit-2) clearly states that the provision of all earlier settlements including that of 2.6.2005 shall continue to govern the service conditions except to

the extent the same are modified by the instant settlement (settlement dated 27.4.2010). The Management in their W.S. (para-10) admitted that the Settlement dated 2.6.2005 was signed u/s 2(p) and Section 18(1) of the I.D. Act, 1947 read with Rules 58 of the Industrial Disputes (Central) Rules, 1957 and that there is no provision for outsourcing the services other than IT and its related activities in respect of specialized areas where in-house capability is not available. The subsequent Bipartite Settlement dated 27.4.2010 has neither modified nor touched the provision of the matter regarding recruitment of Armed Guards by the Bank through Sainik Board. The practice of recruitment of Armed Guards by the Banks from ex-servicemen candidates through Rajya Sainik Kalyan and Punarnivas Karyalaya (Soldiers Board) Board/Armed Guards who are also ex-servicemen and those Ex-Servicemen in reserve category as per Government policy is found admitted by the Management of Union Bank *vide* their letter SEC:BR:361: dated 3.2.14 (marked as Exhibit-7(1)).

9. During argument Mr. J. Chakrabarty, learned counsel for the Union submitted that the Management in their W.S. took different pleas including the issue of maintainability of the reference challenging the eligibility of the Union to organize and espouse the present industrial dispute on behalf of the workmen employed under the Management; the authority of the General Secretary of the said Union to raise the demand/industrial dispute; the jurisdiction of this Tribunal to adjudicate the reference on merit, the propriety of the appropriate government to refer the dispute, etc. Mr. Chakrabarty also pointed that the management in their W.S. averred that the Memorandum of Settlement was for a period of 5 years with effect from 1st November, 2007 and as such, the said Settlement has already been expired on 31.10.2012 and hence, the said Memorandum of Settlement is at present not in force; that the Reserve Bank of India has also retained the same definition of its financial guidelines issued on 3.11.2006 for outsourcing financial services at bank and further clarified that the continuing basis would include agreement for a limited period and for managing risk and Code of Conduct of outsourcing financial services by the Bank; that the management shall rely and refer the outsourcing policy of 2012-13 issued by the authorities from time to time; and that the local management has already taken up the matter with the Head of Office of the Bank and the same is pending decision from the Head Office. But the management has not adduced any evidence in support of their pleadings, for which it is clear that there is no further need to prove whether the decision of the management to out source was in violation of the terms of settlement or not.

In their W.S. the management challenged the maintainability of the present reference on the ground of legality of referring the dispute by the central Government as well as the jurisdiction of this Tribunal to adjudicate the dispute. The present dispute is regarding appointment of

Armed Guard in the management of Union Bank of India and as per the terms of Bipartite Settlement dated 2.6.2005 (Exhibit-1). It is agreed upon by both the parties *vide* Clause-31(h) of the said Memorandum that while it be Banks' endeavor to retain/re-skill staff and to develop in-house competency, they may outsource IT and its related activities in respect of specialized area where in-house capability is not available. In the subsequent Bipartite Settlement signed on 27.4.2010 between the parties (Exhibit-2) there is no mention to the fact that the authority has been given to the management to outsource any other job beyond what was agreed in the Bipartite Settlement marked as Exhibit-1 nor there is any mention regarding outsourcing throughout the Settlement dated 27.4.2010.

The decision of the management *vide* its Circular No. ROG:HRM:1546/2011 dated 20.11.2011 regarding outsourcing the jobs of Armed Guards is the appeal of discord in the instant dispute, against which the Union lodged its protest alleging violation of provision of Bipartite Settlement; and subsequently conciliation took place between the parties which ended in failure. In course of conciliation the management expressed their views that they are making efforts to obtain approval for recruitment of Armed Guard (not outsource) from the competent authority of the Bank and to settle the matter amicably as it reveals from the extract of proceeding of conciliation held between the parties is presence of ALC(C), Guwahati *vide* Exhibit-5, Exhibit-6 and Exhibit-6(1) but ultimately it failed. It is also found admitted by the management that they have been recruiting Armed Guards from ex-servicemen candidates through Rajya Sainik Kalyan and Punarnivas Karyalaya (Soldiers Board) Board and in order to meet sudden need of posting Guards in vulnerable Branches and also temporary phase they outsource Armed Guard who are also Ex-servicemen and they adhere the recruitment of Ex-Servicemen in reserved policy as per Government policy. It is also clear from the para-1 of page-42 of the Bipartite Settlement marked as Exhibit-2 that the provisions of all earlier settlement including those of 2nd June, 2005 shall continue to govern the service conditions except to the extent of the same are modified by this Settlement. The Bipartite Settlement (Exhibit-1 & 2) arrived at between the management of Banks represented by the Indian Banks' Association and their workmen as represented by the All India Bank Employees' Association, National Confederation of Bank Employees, Bank Employees' Federation of India, Indian National Bank Employees' Federation and National Organisation of Bank workers u/s 2(p) and Section 18(1) of the I.D. Act, 1947 read with Rule 58 of the Industrial Dispute (Central) Rule 57, wherein the present Union appears to be one of the members of the Bank Employees Federation of India which is one of the signatories to the said Bipartite Settlement. The dispute has been raised by the General Secretary of the Union Bank Employees Union (NER), Guwahati regarding the outsourcing of Armed Guards in the management Bank and the said Bipartite Settlement

was signed between the parties on the issues regarding conditions of service as well as the provision for outsourcing of services of the Bank. The step taken by the management of Union Bank of India to outsource the Armed Guards ignoring the existing procedure of recruitment of the Armed Guards directly by the Bank from the Rajya Sainik Kalyan and Punarnivas Karyalaya (Soldiers Board) Board appears to have been a violation of the terms of agreement relating to the conditions of services, and hence, it is an industrial dispute. Thus it is crystal clear that the plea of the management regarding the maintainability of the reference as to the authority of the appropriate government to refer the dispute to this Tribunal and as well as to adjudicate this reference by this Tribunal is not sustained. Accordingly, the prayer of the management in their WS for framing the preliminary issue on maintainability of the reference is rejected.

10. Mr. Vel Muragaon, the learned counsel appearing on behalf of the management Bank, in course of argument, submitted that the Bipartite Settlement marked as Exhibit-1 & Exhibit-2 has expired and hence, it has no force and that there is no question of violation of terms of the Bipartite Settlement. Mr. Muragon also pointed that outsourcing of Security Guards etc. are policy matters of the management and as such, the Union cannot interfere with the policy matter of the Bank and that the private security Agency adhere to the provision of fair wages as applicable to the areas and that the service provider pays the monthly wages not less than the applicable minimum wages so that the statutory provisions of Labour Laws such as, ESI, CPF, payment of Gratuity Act, etc.; are complied with, as such, the claim of the union is not maintainable and accordingly the reference is liable to be disposed of without granting any relief.

11. Mr. J. Chakrabarty, learned counsel for the Union assailing the argument of the learned counsel for the Management submitted that to exercise the power an authority has to acquire the said power and in the instant case the Management of Union Bank of India has no authority/power to issue any guidelines regarding outsourcing Armed Guards through service provider ignoring the existing procedure of direct recruitment to the Armed Guards by the Management of Union Bank of India from Rajya Sainik Kalayan and Punarnivas Karyalaya (Soldiers Board) Board, and such step of the Management to outsource the Armed Guards is a clear violation of the Bipartite Settlement dated 2.6.2005 and 27.4.2010 which were signed between the Indian Banks' Association and Workmen Unions (All India Bank Employees, Bank Employees Federation of India, Indian National Bank Employees Federation and others) since the Management *i.e.* the Union Bank of India is one of the Unit of Indian Banks' Association, which have no authority to alter the terms of Settlement regarding outsourcing of services. Mr. Chakrabarty also submitted that neither the management

Bank nor the Reserve Bank did acquire any power to issue guidelines regarding outsourcing of Armed Guards. In order to establish his contention Mr. Chakrabarty, learned counsel for the Union relied upon Election Commission of India—*vs*—State Bank of India Staff Federation reported in 1995 AIR 1078, 1995 SCC Suppl. (2) 13 wherein it was held that it is a question of existence of power and not the manner of its exercise.

12. The Management representative Mr. V. Murugan, in his reply to the above argument, submitted that the Bank for international settlement has defined outsourcing as a regulated entity's (Bank) use of a third party to perform activities on a continuing basis that would normally be undertaken by the regulated entity. He also added that the Reserve Bank of India, from time to time issued guidelines on managing risk and Code of Conduct in outsourcing financial services of Banks to provide direction and guidelines to Banks to adopt sound and responsive risk management practices for effective oversight; and as such, the management by issuing the Circular Letter No. SEC:BR:375 dated 18.6.2013 on the policy of outsourcing Armed Security Guards in the Management Bank has not committed any illegality.

13. On persual the pleadings of both the sides as well as the terms and conditions of the Bipartite Settlement dated 2.6.2005 and 27.4.2010 and taking into consideration the argument advanced by both the parties as discussed above, it appears that the Management being one of the partners of Indian Banks' Association entered into the Bipartite Settlement and the workmen Unions including the Union Bank Employees Union (NER), Guwahati as foresaid marked as Exhibit-1 & Exhibit-2 wherein it was agreed upon between the parties to outsource the IT and its related activities only in respect of specialized areas only where in-house capability is not available as per terms of settlement dated 2.6.2005 (Clause-3(h) which has not been modified in any way whatsoever by its subsequent Bipartite Settlement dated 7.4.2010. It is also found admitted that the Management Bank at Guwahati wrote to its Central Office of the Bank at Mumbai for permitting to recruit Armed Guards to 8 Branches by adopting the procedure of direct recruitment in spite of outsourcing through Private Agency *vide* their letter No. ROG:HRM: 3101/2013 dated 3.12.2013 (Exhibit-6). Thus it is clear that the management issued Circular letter marked as Exhibit-A regarding outsourcing of Armed Security Guards proposing the outsourcing of Armed Security Guards setting procedure etc, on the other hand, they are implementing the terms and conditions of appointment of Armed Security Guards as per the Bipartite Settlement marked as Exhibit-1 & 2. Further the record shows that no further settlement arrived at between the parties as regards conditions of services of the Bank employees including the outsourcing of services of the Bank as such, it is crystal clear that the Bipartite Settlement marked as Exhibit-1 & 2 are in operation.

In this connection I am inclined to rely upon the case of Sukla Maseta Industries Private Ltd.-*vrs*-Workmen, reported in 1977 SC 224, and in Chemplast Somman Ltd.-*vrs*-Mettur Chemicals Etc. Union published in (2000) 1 LLJ 1335 (Mad), wherein it was decided that a settlement though terminated as per Section 19 the same will bind the parties till it is replaced by another settlement.

14. In view of my above discussion it is found that the argument raised by the learned counsel for the Management has no force, and they have miserably failed to establish their contention that the operation of the Bipartite Settlement marked as Exhibit-1 & Exhibit-2 is not in force and the matter regarding appointment/outsourcing of Armed Guards being policy matter the Union has no right or authority to interfere with this, and that present dispute is not an Industrial Dispute to be adjudicated by this Tribunal. In the result, it can safely be held that the decision of the Management of Union Bank of India to outsource the services of Armed Guards/Armed Security Guards is against the terms and conditions of the Bipartite Settlement *vide* Exhibit-1 & 2. Hence, it is decided that the claim of the Union Bank Employees Union (NER), Guwahati for regular appointment of Armed Security Guards through Sainik Board instead of out sourcing as contemplated by the Union Bank of India Management in violating the terms and conditions of the Bipartite agreement is legal and justified.

15. Accordingly the Management of Union Bank of India is directed to follow the terms of Bipartite Settlement dated 2.6.2005 and 27.4.2010 as regards the engagement of Armed Security Guards through Sainik Board till subsistence of the Bipartite Settlement as aforesaid. In the result, this reference is decided in affirmative in favour of the Union.

Send the Award to the Ministry as per procedure.

Given under my hand and seal of this Court on this 22nd day of May, 2015, at Guwahati.

L.C. DEY, Presiding Officer.

नई दिल्ली, 16 जुलाई, 2015

का.आ.1502.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय गुवाहटी के पंचाट (26/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.07.2015 को प्राप्त हुआ था।

[सं० एल-12011/11/2012-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th July, 2015

S.O.1502.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. 26/2012**) of the Central

Government Industrial Tribunal-cum-Labour Court, **Guwahati** as shown in the Annexure in the Industrial Dispute between the management of Punjab & Sind Bank and their workmen, received by the Central Government on 16/07/2015.

[No. L-12011/11/2012-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.

Present : Shri L.C. Dey, M.A., LL.B.
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 26 of 2012

In the matter of an Industrial Dispute between:—

The Workman Sri Sanjib Choudhury

-*Vrs*-

The Management of Punjab & Sind Bank, Zonal Office,
Guwahati.

Date of Award: 27.12.13

AWARD

1. This Reference has been initiated on an Industrial Dispute between the Management, represented by the Zonal Manager, Punjab & Sind Bank, Zonal Office, Uzanbazar, Guwahati and their workman Sri Sanjib Choudhury on account of termination of service of the said workman by the Management, which was referred by the Ministry of Labour, Government of India, New Delhi *vide* their order No. L-12011/11/2012-IR(B-II) dated 22.11.2012. The Schedule of this Reference is an under.

SCHEDULE

"Whether the action of the management of Punjab & Sind Bank in terminating the services of Shri Sanjib Choudhury, Temporary Worker w.e.f. 23.08.2011 and refusal for reinstatement his services, is legal and justified? What relief Shri Sanjib Choudhury is entitled to?"

2. The claimant/workman was a casual employee of Punjab & Sind Bank Ltd., Silchar Branch since 1st December, 2005 to 2010 and he received his wages regularly from the said Bank. Initially he was engaged in the Bank as Operator and in addition to his duties he worked as Operator. He performed the duties of Peon, Postal works and loan recovery etc. Sometimes he was directed to cook the meal and to do marketing for the staff and also to purchase the essential materials of computer as directed by the Manager of the Bank from time to time. The Management of the said Bank assured him to confirm his service and he also tried his best to satisfy the officer and staff of the Bank. On 23.8.2011 he attended his duties 15 minutes late for which

he was terminated without any reasonable ground. As he served for long period of six years in the Bank, his claim for continuous service is genuine and according to law. He submitted prayer for revival of his service but all were in vain in spite of his repeated attempts and efforts.

3. The Management of Punjab and Sind Bank, Zonal Office submitted their W.S. stating, *inter-alia*, that there is no cause of action, that the case is not maintainable in its proper form and the case is bad for estoppel, acquiescence and waiver, and against the provision of Industrial Dispute Act and other laws. As such, the reference is liable to be dismissed. It is also pleaded by the Management that the complaint is frivolous and vexatious and hence, the complainant is not entitled to any relief. The Management/O.P. Categorically denied all the allegations raised in the claim statement submitted by the workman. Further, case of the Management is that the workman was engaged to operate generator set on daily wage basis whenever required and was paid wages as mutually agreed since there was no fixed payment. In the month of August, 2011 the generator set went out of order and was not serviceable condition without major repair. So the Management did not utilize his service any more. It is mentioned that the claimant at no point of time an employee or workman of any nature temporary or casual or by whatsoever adjective at any point of time. So the claim of the workman to be reinstated to operate the generator is childish demand. It is further stated by the Management that the workman was not an employee of the Bank and hence, his attendance was not maintained; and that the plea of the workman that he got extra work of the Bank is not true. Thus the averment made by the claimant are of baseless, incorrect and concocted as such, the reference is liable to be dismissed and the workman is not entitled to any relief as claimed.

4. During the pendency of the proceeding the reference has been taken up for disposal in the Lok Adalat held on 27.12.2013. With the intervention of the learned Conciliators appointed for the purpose, the dispute has been settled up amicably. As per terms of the settlement the management representative namely the Senior Manager, Punjab and Sind Bank, Zonal Office, Guwahati agreed to recommend to the concerned Branch Manager of Punjab and Sind Bank, to re-engage the workman as early as possible on requirement; and the workman also committed to attend his duty with sincerity, honesty, punctuality and obedience. The workman also agreed to dispose of the reference on amicable settlement upon the initiative taken by the Management on humanitarian ground. Accordingly a Memorandum of Settlement has been prepared and signed by both the parties along with the learned Conciliators which is placed on record, and the said Memorandum will form a part of the record as well as the Award.

5. Accordingly the reference is disposed of on amicable settlement/compromise in the Lok Adalat and the management is directed to re-engage the workman as early as possible as per the terms of settlement.

6. Send the Award along with a copy of the Memorandum of Settlement to the Ministry according to the law.

Given under my hand and seal of this Court on this 27th day of December, 2013 at Guwahati.

L.C. DEY, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ.1503—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (72/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th July, 2015

S.O.1503—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 72/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workman, received by the Central Government on 16/07/2015.

[No. L-39025/01/2010-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY
PRESIDING OFFICER

I.D. 72/2014

Sh. Kalu Ram Gujar
S/o Shri Ramji Lal
Repr. By the Rajasthan (State) Bank
Employees Welfare Forum (Regd.),
Chaturvedi Bhawan, Indra Colony,
Alwar.

V/s

1. The Dy. General Manager,
Punjab National Bank
Nehru Place, Jaipur.

2. The Branch Manager,
Punjab National Bank,
Raja Park, Jaipur.

Petition u/s 2(A) of Industrial Disputes Act, 1947 against illegal termination of service of workman Sh. Kalu Ram Gujar w.e.f. 5.6.2011.

AWARD

27.10.2014

1. Applicant Sh. Kalu Ram Gujar has filed this case u/s 2(A) & 33-A of Industrial Disputes Act, 1947 against Punjab National Bank for termination of his service w.e.f. 5.6.2011.

2. According to statement of claim briefly fact of the case is that applicant raised an industrial dispute in relation to regularisation of his services before the Regional Labour Commissioner (Central), Jaipur by submitting a plaint dated 21.4.2011 through above mentioned Bank Employees Welfare Forum. Consequent to submission of plaint notice dated 27.4.2011 was issued to both the parties for attending conciliation proceeding. According to statement of claim bank management was annoyed with workman on account of raising industrial dispute & therefore terminated the services of workman w.e.f. 5.6.2011 during pendency of conciliation proceeding. Applicant preferred a complaint on 29.8.2011 before Regional Labour Commissioner (Central), Jaipur against termination of services during pendency of conciliation proceeding. Regional Labour Commissioner (Central), Jaipur further issued a notice dated 16.11.2011 against opposite party against termination of services of the applicant. Conciliation proceeding ended in failure & a failure report was submitted to the Ministry by Regional Labour Commissioner (Central) vide letter No. JP 7(16)/2011 dated 19.7.2012.

3. Accordingly to the fact contained in the plaint presented before the Regional Labour Commissioner (Central) on behalf of applicant by General Secretary of the above Bank Employee's Welfare Forum Sh. Kalu Ram Gujar was working in the above branch of Punjab National Bank as temporary part time subordinate staff from April, 2008 & he was doing the job of supply of drinking water to the consumer of the bank, dusting & cleaning of the bank furniture & computers & other duties of a peon e.g. delivery of clearing & accompany to cash remittances with cashiers of the bank etc. He was paid a sum of Rs. 1200/- (1000/- + 200/-) by Branch Manager in lieu of services rendered by him. It has been further alleged that despite clear mandate of section 25-(T) of Industrial Disputes Act, 1947 that no employer should adopt unfair labour practice as provided in Schedule V of the Act, the Bank management is deliberately violating this mandate & employing casual & temporary employees & continue them as such for years with the object of depriving them of the status & privileges of permanent workmen. Section 20(8) of I.B.P. Settlement provides that a temporary employee may also be appointed

to fill up a permanent vacancy & further section 20(12) of the Settlement provides that a temporary employee should be given preference in filling permanent vacancies. The Bank has recently filled up number of vacancies as part time employee at the scale of 1/3 wage scale from amongst temporary employees who have worked for 90 days or more during last five years at any branch of Jaipur district. Sh. Kalu Ram Gujar has worked continuously as part time employee but has not been given such chance. The above discriminatory treatment of the bank management amounts to grave unfair labour practice. At last, it has been prayed that the bank management be instructed to provide chance to Sh. Kalu Ram Gujar to be a permanent employee at the earliest.

4. After expiry of period of more than 45 days when no reference was received by the applicant from Ministry he filed the application before this tribunal u/s 2(A) of Industrial Disputes Act, 1947 on 31.1.2013 during the period of my learned predecessor. The case of the applicant was registered & notices were sent to opposite party fixing 2.5.2013 for hearing on maintainability of application. Notices were served on opposite party on 21.3.2013 & learned representative of opposite party appeared on 2.5.2013. On 11.12.2013 adjournment was granted in favour of opposite party to file reply by 13.2.2014. An order was passed on 13.2.2014 to seek information from Ministry about issuance of any reference in the matter of applicant. No reference has been received till date in this matter.

5. Before receipt of any information from Ministry about reference & conclusion of hearing on maintainability of the application of applicant, on 29.4.2014 an application was moved before the tribunal by the applicant for withdrawing the case to re-agitate the issue again before the Conciliation Officer for seeking reference. It is pertinent to mention that at the time of filing of application on 2.5.2013 u/s 2(A) of Industrial Disputes Act, 1947 the application of the applicant was fixed for hearing on maintainability on 25.7.2013.

6. I have heard the argument of the learned representative of the applicant on the issue of withdrawing the case. It has been argued by the learned representative of the applicant that it is permissible to withdraw the case for placing the matter for conciliation & seeking the reference. Reliance has been placed by the learned representative of the applicant on the case reported in 2002 LLR 1085, Supreme Court Virendra Bhandari vs. Rajasthan State Road Transport Corporation & others.

7. I have very carefully gone through the above judicial precedents wherein it has been held in para 4 of the judgement by Hon'ble Supreme Court, "..... When there is no adjudication of the matter on merits, it cannot be said that the industrial dispute does not exist. If the industrial dispute still exists, as is opined by the government, such a matter can be referred under Section 10 of the Industrial

Disputes Act." It has been further held, "..... It was certainly permissible for the government to have made the second reference on which occasion after inquiring into the matter, the tribunal adjudicated the matter finally."

8. According to the facts of the above cited case a reference was made to the industrial tribunal-cum-labour Court for adjudication of a dispute in terms of section 10(d) read with section 12(5) of the Industrial Disputes Act on the question of termination of the services of the workman and forfeiture of the certain amount of wages for the period for suspension. The tribunal by an adjudication dated 8.8.85 held that notices had been served upon the appellant but he had remained ex-parte hence, the tribunal proceeded to state that there does not remain any dispute between the parties & accordingly the reference was adjudicated in that manner in absence of appellant. Subsequently, an application was moved by the appellant for restoration of the case which was disposed by the tribunal on the ground that appellant had not evinced any interest in the dispute & there has been delay in seeking restoration of the proceedings hence, it is not proper to cancel the award after issue of notification after the award was made. Thus, first reference was disposed against the appellant in his absence. However, the government by order dated 20.12.88 made a reference of the dispute to the tribunal on the same questions on which first reference was made. On the second reference matter was adjudicated by the tribunal & an award was made. Against the award on second reference challenge was made by respondent before the Hon'ble High Court wherein it was found by Hon'ble High Court that tribunal had given a finding on the earlier occasion that industrial dispute does not exist which is in itself a determination of the question relating to industrial term 'award' under the Industrial Dispute act & therefore, second reference made by the government was incompetent in as much as no claim petition had been filed by the appellant on earlier occasion when reference was made. It is not permissible for appellant to agitate the matter any further. Looking into entire adjudication proceedings on first reference & subsequently on second reference it was observed by Hon'ble Supreme Court in para 3 of the judgement as under:—

"..... We fail to appreciate neither the manner in which the tribunal disposed of the matter on the first occasion nor the manner of approach made by the High Court."

9. Accordingly, the order passed by Hon'ble Division Bench of the High Court was set aside & judgement passed by Hon'ble Single Judge of High court was affirmed & the matter was remitted for fresh consideration on the merit in accordance with law by the Division Bench of the High Court under writ jurisdiction. Based on the above cited case stress has been made by learned representative of the applicant that an attempt will be made by the applicant to re-agitate the issue once again before the Conciliation Officer & secure the reference in the matter.

10. In above fact & circumstances, it is evident that the applicant no longer wants to pursue the matter further & intends to withdraw it for seeking reference. In absence of willingness of the applicant to continue the case & in absence of any cogent evidence brought on record it is impracticable to adjudicate the matter in dispute before the tribunal. Accordingly, the application of the applicant in respect of this case is allowed & the case is dismissed as withdrawn.

11. Award as above.

BHARAT PANDEY, Presiding Officer.

नई दिल्ली, 16 जुलाई, 2015

का.आ.1504—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पारादीप पत्तन न्यास के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में, निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 2/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-38011/4/2004-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th July, 2015

S.O.1504.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 2/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Paradip Port Trust and their workman, which was received by the Central Government on 16/07/2015.

[No. L-38011/4/2004-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present: Shri Pradeep Kumar,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE No. 2/2005

Date of Passing Order—8th September, 2014

Between:

1. The Chairman, Paradip Port Trust,
At/Po. Paradip, Jagatsinghpur-754 142.

2. The General Manager,
Indian Farmers Fertilizer Corporation,
Musadhie, At./Po. Paradip, Jagatsinghpur,
Pin-754 142, Orissa.

3. The Managing Director,
M/s. Paradip Phosphate Ltd.,
Pandit Jawahar Lal Nehru Marg,
Bhubaneswar-750 110.

... 1st Party - Managements

(And)

1. The General Secretary,
Paradip Port, Dock & Construction
Workers' Union, Quarter No. M/11/9B,
Madhuban, Paradip Port, Jagatsinghpur,
Pin-754 142, Orissa.
2. The General Secretary,
Paradip Dock & Transport workers Union,
Nisamani Bhawan, Paradip Port,
Jagatsinghpur-754 142, Orissa.

... 2nd Party - Unions.

Appearances:

Shri Sriman N. Mishra,
Asst. Traffic Manager.
Shri Madhusudhan Kuntia,
Sr. Officer, Law.

... For the 1st Party - Management No. 1 and 3.
Shri Gagan Behari Mohanty,
General Secretary.
... For the 2nd Party - Union No. 2

AWARD

Case taken up today. Authorized representatives for the 1st Party—Management No. 1 and 3 are present. General Secretary of the 2nd Party—Union No. 2 is also present. None is present for the 1st Party—Management No. 2 and the 2nd Party—Union No.1. They were set exparte on 1.12.2008. The case is today fixed for cross examination of M.W.-1, but the General Secretary of the 2nd Party—Union No. 2 has moved a petition today before this Tribunal to drop/withdraw the dispute on the ground that the reliefs sought by them are covered in the award passed in I.D. Case No. 19/2007. Accordingly the 2nd Party-Union No. 2 has sought leave of this Tribunal to permit it to withdraw the present dispute. The authorized representatives for the 1st Party-Management No. 1 and 3 have no objection to the petition. Accordingly finding no legal hindrances in allowing the 2nd party-Union No. 2 to withdraw the present dispute I allow the 2nd Party No. 2 to withdraw the present case. The petition is allowed and the reference is decided as withdrawn and a no-dispute award is passed in terms of the reference.

PRADEEP KUMAR, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ.1505.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 22/2010) प्रकाशित करती है जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-12012/79/2009-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th July, 2015

S.O.1505—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 22/2010 of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bank of Baroda and their workman, which was received by the Central Government on 16/07/2015.

[No. L-12012/79/2009-IR(B-II)]

RAVI KUMAR, Desk Officer

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 22 of 2010

Parties: Employes in relation to the management of
Bank of Baroda, Eastern Zonal Office,
Kolkata Metro Regional Office

AND

Their workmen,

Present: **Justice Dipak Saha Ray,**

...Presiding Officer

Appearance:

On behalf of the : Mr. Partha Bhattacharya, Ld. Counsel.
Management

On behalf of the : Mr. Devajyoti Barman, Ld. Counsel.
Workmen

State: West Bengal.

Industry : Banking.

Dated: 7th July, 2015.

AWARD

By Order No. L-12012/79/2009-IR(B-II) dated 27.01.2010 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Dispute Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Bank of Baroda, Kolkata in dismissing Shri Subrata Saha, Computer Operator (E.C. No. 21356) is legal and justified? What relief the concerned workman is entitled to?"

2. When the case is taken up for hearing today, Ld. Counsel for both the parties appear and they refer to the application of the concerned workman dated 06.07.2015 and pray for necessary order.

3. Heard both sides. Perused the application.

4. It is submitted on behalf of both the parties that the disputes between the parties have been settled amicably out of the Tribunal and as such the concerned workman does not want to proceed with the case further.

5. Considering the above, it appears that there is neither any scope nor any reason to proceed with the case further.

6. In view of the above facts and circumstances, instant reference is disposed by passing a "No Dispute Award". Kolkata,

Dated, the 7th July, 2015

Justice DIPAK SAHARAY, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का.आ.1506.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आन्ध्रा बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 27/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 16/07/2015 को प्राप्त हुआ था।

[सं. एल-12011/28/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी।

New Delhi, the 16th July, 2015

S.O.1506.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 27/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the management of Andhra Bank and their workmen, received by the Central Government on 16/07/2015.

[No. L-12011/28/2010-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, BHUBANESWAR

Present: Shri Pradeep Kumar,

Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO.27/2011

L-12011/28/2010-IR(B-II), dated 04.05.2011

Date of Passing Award - 5th day of January, 2015

Between:

The Dy. General Manager,
Andhra Bank, Zonal Office,
At/PO-Baramunda,
Bhubaneswar-3, Odisha

... 1st Party - Management.

(And)

The General Secretary,
Odisha State Andhra Bank Employees Union,
Hanuman Bazar, Berhampur
Odisha.

... 2nd Party - Union.

Appearances:

1. Shri B.K. Ekka, Sr. Manager-HR, ... For the 1st Party -
Andhra Bank Zonal Office Management

2. Shri S.K. Mohanty ... For the 2nd Party
Dy. General Secretary. - Union

AWARD

The Government of India in the Ministry of Labour & Employment has referred the present dispute existing between the employer in relation to the Management of Andhra Bank, Zonal Office, Bhubaneswar, Odisha, and their workmen Shri Soren Kumar Nayak represented through the General Secretary, Orissa State Andhra Bank Employees' Union, Berhampur in exercise of the powers conferred under clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act *vide* their Letter No. L-12011/28/2010 - IR(B-II), dated 04.05.2011 to this Tribunal for adjudication. The dispute as referred to has been mentioned under the schedule of the order of reference which is quoted below.

"Whether the action of the Management of Andhra Bank, Bhubaneswar in refusing to provide the documents and/or information relied upon during the course of domestic enquiry against Shri Soren Kumar Nayank, Sub-Staff and intending to award punishment of compulsory retirement is proportionate to offence cause by the workman is legal & justified? What relief the concerned workman is entitled to?"

2. The 2nd party union (herein after referred to as "the 2nd party") has filed his Statement of Claim detailing therewith the illegality committed on behalf of the 1st party management Bank (herein after referred to as "the 1st party") in refusing to provide the documents and/or information relied upon during the course of domestic

enquiry to the delinquent workman Shri Soren Kumar Nayak (herein after referred to as "the workman") and the imposition of the punishment of compulsory retirement upon the workman. The workman had joined to the 1st party on 14.10.1986 in its sub-ordinate staff cadre at its currency chest branch, Baramunda, Bhubaneswar. The disputant workman is a member of the Orissa State Andhra Bank Employees' Union. The disciplinary proceedings against the bank employees are being conducted as per the Bipartite settlements signed between the Indian Banks' Association and the All India Bank Employees' Association under the settlement dated 10.04.2002. The 2nd party has strongly objected the action of the 1st party as the same is not done in accordance with the bipartite settlement dated 10.04.2002 and therefore, the action taken by the 1st party against the workman is unjust, unfair, illegal and arbitrary.

3. The 2nd party alleged that, on 13.04.2009, the 1st party entrusted the workman who happened to be a sub-ordinate staff of the bank, the task of receiving, counting the sorting the cash of Rs. 53 lakhs and to remit the same to the Currency Chest Branch of the bank in violation of the rules framed in the manual of instructions of the bank which should have been done actually by the cashier or an officer concerned of the bank. Moreover, the 2 (two) excess numbers of five hundred rupee denomination notes have been adjusted with the shortfall of 10 (ten) hundred rupee denomination notes and there was no misappropriation of the total amount of Rs. 53 lakhs.

4. Report submitted by the then manager Mr. Bijay Kumar Jena is also false on the ground that he (Shri Jena) was on tour to Kaliapani on 16.04.2009 from 9.30 AM to 6.00 PM. The process of counting was undertaken under the supervision of one Mr. Ashok Das, officer of the bank and the necessary adjustments of shortfall of hundred rupee notes with the five hundred rupee notes in his presence. The 1st party had only manipulated the documents for conducting the departmental enquiry against the workman and went beyond the terms of the charge sheet with an ulterior motive to punish the workman. The 1st party did not provide the required documents to the delinquent workman to enable him to defend the matter and thereby violated the principles of natural justice. Accordingly, the 2nd party made a prayer to pass orders declaring the departmental proceedings conducted against the workmen as unfair, the gravity of punishment imposed upon the workman is not proportionate and to order for any other relief as applicable to the workman.

5. The 1st Party on the other hand in his written statement denied the statements made by the 2nd party in his statement of claim. The 1st party has contended that, the departmental proceeding was conducted against the workman fairly and properly on the charges of misappropriation of money and the workman was punished with compulsory retirement by the disciplinary authority

on the prove of the charges leveled against him as per the report of the enquiry officer. The 1st party has further contended that there cannot be an industrial dispute against any punishment proposed to be imposed upon the delinquent employee of the bank. Since the punishment of compulsory retirement is confirmed by the disciplinary authority and the same is upheld by the appellate authority, the present reference becomes innocuous. The reference is therefore, liable to be rejected in limine. Accordingly, the 1st party prayed for the rejection of the reference and award costs to the 1st party against the 2nd party.

6. The following issues were framed by my predecessor.

- (a) Whether the action of the management of Andhra Bank, Bhubaneswar in refusing to provide the documents and/or information relied upon during the course of domestic enquiry against Shri Soren Kumar Nayak, sub-staff and intending to award punishment of compulsory retirement is proportionate to offence caused by the workman is legal and justified?
- (b) What relief the concerned workman is entitled to?

7. The 2nd party has examined his witness Shri Manoranjan Das, then Special Assistant in Andhra Bank, Berhampur Main Branch as workman witness No. 1 and proved 12 (twelve) documents. The 1st party on the other hand declined to adduce the evidence of any of his witness nor proved any document. I have heard arguments of both the parties. The 2nd party also filed his written notes of arguments alongwith certain case laws.

FINDINGS

Issue No. 1

8. The admitted facts are, the workman was a regular sub-staff under the 1st Party working in its Currency Chest Branch, Bhubaneswar. As per the rules framed in the Manual of Instruction of the bank, sub-staffs are not supposed to be engaged for sorting/counting of currency notes/coins. The 1st party have forced the workman for sorting/counting of the huge cash in the guise of responsibility and in violation of the prescribed rules. The sorting/counting of notes are to be undertaken under the strict supervision of one responsible officer of the bank. The departmental proceeding conducted against the workman was based mainly upon the CCTV recordings of 15.04.2009. Discrepancy was noticed only with the hundred rupee notes packets and not with the five hundred rupee notes packets. The 1st party nowhere in this case has alleged that the workman has misappropriated the hundred rupees notes. Rather allegations were made against the workman for misappropriation of five hundred rupee notes.

9. Further, it is admitted that the 1st party conducted the departmental proceedings against the workman after

issuance of charge sheet basing upon only two documents, (a) visit report dated 21.04.2009 and (b) attendance register for the month of April, 2009. The 1st party has provided only those two documents to the workman alongwith the charge sheet. But, besides the above two documents, the 1st party relied upon certain other documents like CCTC recordings etc. which they have not provided to the workman. The 1st party also not co-operated the workman in providing him the required documents in order to give him proper opportunity for his defence. The workman was not given an opportunity to prove his stand on the non-availability of the then Sr. Manager, Shri Bijay Kumar Jena in the currency chest branch of the bank in Bhubaneswar on 16.04.2009 to prove the fact that the statement of Shri Jena was false and ill motivated. Also, the activities of the then bank officer Shri Ashok Das was neither scanned nor any liability was fixed upon him for the above misappropriation as he was strictly supervising the counting/sorting of the huge cash. The 1st party also not provided the information/documents as applied for under the RTI Act, 2005 by Shri Manoranjan Das who is assisting the workman to defend himself. Moreover, it seems that, to avoid the liability, the bank management declined to provide the information/documents to the RTI applicant on the grounds of non-availability of the same.

10. The copies of the enquiry proceedings/ report clearly shows that the statement given by the management witnesses have not been properly interpreted. Some of the statements of the management witnesses also gives some doubt on their truthfulness. The 1st party have not supplied the documents they actually relied upon the the departmental proceeding conducted against the workman either with the charge sheet or with the second show cause notice to the workman. This is a clear violation on the part of the 1st party of the law of natural justice. On the above grounds, the entire acts of the 1st party in this case smells fishy. It seems, in order to save themselves, the 1st party made the workman a victim of their laibaility. Hence, the action of the 1st party is not legal and justified in refusing to provide the documents and/or information to the workman. The 1st party also not justified in imposing the punishment of compulsory retirement upon the workman as the departmental proceeding conducted against the workman was not fair and proper. Issue No. 1 is answered accordingly.

Issue No. 2

11. In view of the above grounds, I found no infirmity in quashing the order of punishment passed against the workman by the disciplinary authority and the 1st party is hereby ordered to reinstate the workman Shri Soren Kumar Nayak back into his services under them with all service benefits applicable to him and pay him his back wages since the date of his compulsory retirement till the date of his reinstatement into bank's services within three months

from the date of publication of this award in the Gazette of India failing which the 1st party shall pay simple interest @ 12 per cent per annum to the workman on the total amount of back wages.

12. The reference is answered accordingly against the 1st party management Bank.

PRADEEP KUMAR, Presiding Officer

नई दिल्ली, 16 जुलाई, 2015

का०आ० 1507.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लेबर वेलफेयर आर्गनाइजेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण कोर्ट के पंचाट (सं० 32/1997) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.07.2015 को प्राप्त हुआ था।

[सं. एल-42012/42/96-आई आर (डीयू)]

पी०के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th July, 2015

S.O. 1507.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (I.D. No. 32/1997) of the Industrial Tribunal, Kota now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Labour Welfare Organisation and their workmen, which was received by the Central Government on 14/07/2015.

[No. L-42012/42/96-IR(DU)]

P.K. VENUGOPAL, Desk Officer

अनुबन्ध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोर्ट, (राज०) पीठासीन अधिकारी- श्रीमती अनिता शर्मा, आर०एच०जे०एस० निर्देश प्रकरण क्रमांक औ०न्या० (केन्द्रीय)-32/1997 दिनांक स्थापित: 21/11/97

प्रसंग: भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश

क्र० एल-42012/42/96-आईआर(डीयू) दि० 24/10/97

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) औद्योगिक विवाद अधिनियम, 1947

मध्य

इशाक पुत्र नसीर मोहम्मद द्वारा संयुक्त महामंत्री, हिन्द मजदूर सभा, बंगाली कोलोनी, कोट।

—प्रार्थी श्रमिक

एवं

श्रम कल्याण आयुक्त, भारत सरकार, गांधीनगर, भीलवाड़ा।

—अप्रार्थी नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि:— श्री एन०के० तिवारी
अप्रार्थी नियोजक की ओर से प्रतिनिधि:— श्री एस०एस० उप्पल
अधिनियम दिनांक: 18/2/2015

::अधिनिर्णयः::

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासंगिक आदेश दिनांक 24/10/97 के जरिये निम्न निर्देश विवाद औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त “अधिनियम” से सम्बोधित किया जायेगा) की धारा 10(1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है:

“Whether the action of the management of Labour Welfare Organisation in not regularising the service of Shri Ishak is Legal and justified? If not to what relief the workman is entitled to?”

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना/नोटिस जारी कर विधिवत अवगत करवाया गया।

3. प्रार्थी की ओर से उसकी यूनियन के महामंत्री द्वारा न्यायालय के समक्ष क्लेम स्टेटमेन्ट प्रस्तुत कर व्यक्त किया गया है कि प्रार्थी को अप्रार्थी कल्याण आयुक्त, भारत सरकार, श्रम कल्याण संगठन, 44-ए त्रिलोक निवास, गांधीनगर, भीलवाड़ा द्वारा दिनांक 7/3/84 से चौकीदार के पद पर सेवा में नियोजित कर चिकित्साधिकारी, एलोपैथिक, औषधालय, भारत सरकार बीड़ी श्रमिक कल्याण संगठन, कोटा के यहां पर कार्य पर लगाया गया था। श्रमिक से सांयकाल 7 बजे से प्रातः 7 बजे तक 12 घन्टे चौकीदार का कार्य लिया जाता था तथा मात्र 350/-रु० प्रतिमाह वेतन दिया जाता था जो न्यूनतम वेतन भारत सरकार द्वारा घोषित से भी बहुत कम है। प्रार्थी श्रमिक का 11 वर्ष से शोषण किया जा रहा है। श्रमिक सेवा में लिये जाने की दिनांक के दो वर्ष बाद से स्थायी होने का अधिकारी है। नियोजक के यहां श्रमिक का पिछला सेवाकाल संतोषप्रद रहा है। परिणामतः श्रमिक को नियुक्ति दिनांक के दो वर्ष बाद से स्थायी किया जाकर पिछले समस्त एरियर एवं लाभ दिलाये जाने की प्रार्थना न्यायालय से की गयी है।

4. उपरोक्त क्लेम स्टेटमेन्ट का संशोधित जवाब प्रस्तुत कर अप्रार्थी की ओर से व्यक्त किया गया है कि प्रार्थी श्रमिक को विभाग में आवश्यकतानुसार एक निश्चित अवधि के लिए अल्पकालीन श्रमिक के रूप में अस्थायी तौर पर अप्रार्थी द्वारा स्वीकृति प्रदान करने पर सहायक कल्याण प्रशासक, बीड़ी श्रमिक चिकित्सालय, कोटा कार्यालय में लगाया गया था। सहायक कल्याण प्रशासक, बीड़ी श्रमिक चिकित्सालय, कोटा, प्रार्थी श्रमिक का असल नियोजक है जिसे पक्षकार बनाया जाना आवश्यक है नोन जोईण्डर आफ नेसेसरीज आफ पार्टीज के दोष के कारण यह प्रार्थना-पत्र चलने योग्य नहीं है। प्रार्थी श्रमिक की नियुक्ति अल्पकालीन श्रमिक के रूप में 350/-रुपये प्रतिमाह के हिसाब से की गयी थी। प्रार्थी से विभाग में मात्र 2 या 3 घन्टे ही कार्य लिया जाता है। प्रार्थी द्वारा कभी भी पूर्ण दैनिक वेतन भोगी श्रमिक के रूप में कार्य नहीं किया गया है। प्रार्थी श्रमिक अल्पकालीन श्रमिक है जिसे अल्पकालीन श्रमिक का ही

वेतन दिया जाता है। प्रार्थी दैनिक वेतन भोगी श्रमिक नहीं है, अतः स्थायी होने की क्षमता नहीं रखता है विभाग में ऐसा कोई नियम नहीं है कि किसी भी श्रमिक के 2 वर्ष कार्य करने के उपरान्त उसे स्थायी किया जावे। अप्रार्थी का विभाग केन्द्रीय सरकार, श्रम मंत्रालय के अधीन कार्यरत एक संस्थान है जो बीड़ी श्रमिकों के हितों वह सेवा के लिए कार्यरत है जो किसी प्रकार का लाभ अर्जित नहीं करता, अतः अप्रार्थी विभाग उद्योग की परिभाषा में नहीं आता है व अप्रार्थी विभाग पर औ०वि० अधिनियम के प्रावधान लागू नहीं होते, अतः प्रार्थी औ०वि० अधिनियम के प्रावधानों का कोई लाभ प्राप्त करने का अधिकारी नहीं है। चौकीदार के पद हेतु प्रार्थी की उम्र 18 से 25 वर्ष के बीच होनी चाहिए व प्रार्थी का 8वीं कक्षा पास होना व भूतपूर्व सैनिक होना आवश्यक है, जबकि प्रार्थी श्रमिक की उम्र वर्तमान में 50 वर्ष के करीब है, अतः प्रार्थी श्रमिक स्थायी कर्मचारी होने की योग्यता भी नहीं रखता है। परिणामतः प्रार्थी श्रमिक, अल्पकालीन श्रमिक होने के कारण अर्द्धस्थायी व स्थायी होने का अधिकारी नहीं होने से प्रार्थी श्रमिक द्वारा प्रस्तुत किया गया क्लेम स्टेटमेन्ट खरिज किये जाने की प्रार्थना की गयी है।

5. प्रार्थी श्रमिक की ओर से अप्रार्थी के उक्त संशोधित जवाब का प्रत्युत्तर प्रस्तुत कर व्यक्त किया गया है कि अप्रार्थी द्वारा प्रार्थी श्रमिक से मात्र 2 या 3 घन्टे ही कार्य नहीं किया जाता बल्कि अप्रार्थी द्वारा प्रार्थी से सांय काल 7 बजे से प्रातः 7 बजे तक 12 घन्टे चौकीदार का कार्य लिया जाता रहा है तथा प्रार्थी को मात्र प्रातः 7 बजे तक 12 घन्टे चौकीदार का कार्य लिया जाता रहा है तथा प्रार्थी को मात्र 350/-रु० देकर उसका शोषण किया जा रहा है। प्रार्थी का चौकीदार का पद स्थायी प्रकृति का पद है जिस पर शैक्षणिक योग्यता व आयु के हिसाब से ही नियुक्ति की जानी चाहिए थी। नियोजक के यहां श्रमिक की सेवायें 19 वर्ष से भी अधिक की हो चुकी हैं व 19 वर्ष तक किसी श्रमिक को दैनिक वेतन पर रखा जाना औ०वि० अधिनियम, 1947 की धारा 2(आर०ए०) के साथ सपठित धारा 25-टी व पांचवीं शिड्यूल के अन्तर्गत अनुचित श्रम आचरण है।

6. साक्ष्य में प्रार्थी श्रमिक की ओर से स्वयं प्रार्थी इशाक का तथा अप्रार्थी पक्ष की ओर से साक्षी डॉ० संजीव कवात्रा का शपथ-पत्र व संशोधित शपथ-पत्र प्रस्तुत किया गया है जिनसे उभयपक्ष के प्रतिनिधिगण द्वारा एक-दूसरे पक्ष के शपथ-पत्रों पर जिरह की गयी है। प्रलेखीय साक्ष्य में प्रार्थी की ओर से प्रदर्श डबल्यू 1 लगायत डबल्यू 5 तथा अप्रार्थी की ओर से प्रदर्श एम० 1 लगायत एम० 5 तक के प्रलेख प्रस्तुत कर प्रदर्शित करवाये गये हैं।

7. उभयपक्ष के विद्वान प्रतिनिधिगण की बहस सुनी गयी, पत्रावली पर उपलब्ध साक्ष्य व सामग्री का ध्यानपूर्वक परीशीलन किया गया।

8. बहस अन्तिम के दौरान न्यायाधिकरण के समक्ष यह तथ्य ध्यान में लाया गया कि हस्तगत मामले में प्राप्त निर्देश/रेफ्रेन्स में प्रार्थी के नियमितिकरण की कोई तिथि अंकित नहीं है, अतः यह न्यायाधिकरण किस तिथि/दिनांक को प्रार्थी की नियमितिकरण की तिथि मानकर, सेवामें नियमितिकरण नहीं किये जाने की वैधता एवं उचितता का विनिश्चय करेगा? इस सम्बन्ध में माननीय राजस्थान उच्च न्यायालय द्वारा न्यायदृष्टांत “2003 डबल्यूएलसी (राज०) पृष्ठ 424-महावीर कण्डक्टर बनाम

नन्दकिशोर" में यह प्रतिपादित किया गया है कि सेवाओं के पर्यवसान की तिथि का रेफ्रेन्स में उल्लेख नहीं होने से श्रम न्यायालय किसी कर्मकार के कथनानुसार पर्यवसान की तिथि को स्वीकार कर निर्देश/रेफ्रेन्स की शर्तों में सुधार, संशोधन या उपान्तरण करने में सक्षम नहीं है एवं ना ही न्यायालय को पक्षकारों की सहमति से ऐसी अधिकारिता प्राप्त होती है। अतः माननीय उच्च न्यायालय द्वारा निर्देश/रेफ्रेन्स में कर्मकार की सेवा के पर्यवसान की तिथि वर्णित नहीं होने से अधिनिर्णय को अपास्त कर दिया गया। इस उक्त न्यायनिर्णय में प्रतिपादित सिद्धांत के अनुसार जहां निर्देश/रेफ्रेन्स में सेवा से हटाने, मुक्त करने या पृथक् करने की तिथि का अंकन नहीं है तो श्रम न्यायालय को उस तिथि को सही करने या संशोधन करने की अधिकारिता पक्षकारों के द्वारा ऐसी तिथि प्रस्तावित किये जाने पर भी प्राप्त नहीं हो जाती है। अर्थात् यदि निर्देश में सेवा मुक्ति, पृथक् या हटाने की तिथि का कोई अंकन नहीं है व दोनों पक्षकार ऐसी तिथि यदि बता भी देते हों तो भी श्रम न्यायालय को उस बतायी गयी तिथि को मानकर उसके आधार पर निर्देश/रेफ्रेन्स उत्तरित करने का अधिकार प्राप्त नहीं होता है। इस न्यायनिर्णय के पैरा सं० 11 में, माननीय उच्चतम न्यायालय द्वारा मदनपाल सिंह बनाम उत्तर प्रदेश राज्य व अन्य-एआईआर 2000 एससी 537 के निर्णय को विवेचित किया गया है तथा अंत में यह निष्कर्ष निकाला गया कि श्रम न्यायालय निर्देश में वर्णित बिंदुओं तक ही सीमित क्षेत्राधिकार रखता है एवं उसको पक्षकारों के नामों में निर्देश से परे जाकर संशोधन आदि करने का अधिकार प्राप्त नहीं होता। यदि नामों या तिथि आदि में कोई परिवर्तन या अंकन कराना है तो पक्षकारों को समुचित सरकार के समक्ष इस बाबत पक्ष रखकर उसमें संशोधन कराना होगा, परंतु श्रम न्यायालय को ऐसा संशोधन करने की अधिकारिता नहीं है। अतः इसी निर्णय को आधार मानते हुए माननीय उच्च न्यायालय द्वारा उक्त मामले में श्रम न्यायालय द्वारा पारित अधिनिर्णय को क्षेत्राधिकार के अभाव का मानते हुए अपास्त कर दिया गया।

9. अब यह न्यायाधिकरण हस्तगत निर्देश/रेफ्रेन्स में प्रार्थी के नियमितिकरण की तिथि का कोई अंकन नहीं होने से किस तिथि से प्रार्थी की सेवाओं का नियमितिकरण अप्रार्थी द्वारा नहीं किए जाने से अप्रार्थी के उक्त कृत्य की उचितता एवं वैधता का विनिश्चय करेगा तथा क्या यह न्यायाधिकरण प्रार्थी द्वारा सुझायी गई तिथि को नियमितिकरण तिथि मानकर प्रकरण का गुणावगुण पर विनिश्चय कर सकता है अथवा निर्देश/रेफ्रेन्स में संशोधन करने का अधिकार रखता है? इस संबंध में माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डब्ल्यूएलसी (राज०) पृष्ठ 424-महावीर कण्डक्टर बनाम नन्दकिशोर" के पैरा संख्या 12 का उल्लेख किया जाना न्यायसंगत है जिसमें माननीय उच्च न्यायालय द्वारा सेवा समाप्ति तिथि में संशोधन आदि बाबत निम्न स्थिति प्रकट की गई है:—

"Thus, in view of the above, I reach the inescapable conclusion that the Labour Court has no competence to correct/modify/amend/alter the terms of the reference or mention the date of termination etc. or proceed with the reference and accepting the date of termination as

suggested by the workman and in case it does so, the award becomes nullity, being without jurisdiction, based on the bad reference."

10. इस प्रकार उपरोक्त न्यायदृष्टांत में प्रतिपादित सिद्धांत हस्तगत प्रकरण के तथ्यों पर घटित करके देखा जाए तो इस मामले में भी निर्देश/रेफ्रेन्स जो सक्षम सरकार द्वारा किया गया है, उसमें प्रार्थी श्रमिक इशाक को किस तिथि से सेवा में नियमितिकरण नहीं करने की उचितता एवं वैधता का विनिश्चय किया जावे, यह स्थिति स्पष्ट नहीं है, जबकि प्रार्थी ने अपने क्लेम स्टेटमेंट में स्वयं को 7.3.84 से चौकीदार के पद पर सेवा में नियोजित किया जाना व्यक्त किया है व नियुक्ति दिनांक के 2 वर्ष बाद से स्थायी किए जाने की प्रार्थना की है व इसी प्रकार की साक्ष्य स्वयं के शपथ-पत्र के माध्यम से प्रस्तुत की है व दिनांक 7.3.86 से ही स्वयं को नियमित होने का अधिकारी होना व्यक्त किया है। परंतु माननीय उच्चतम एवं उच्च न्यायालय द्वारा ऊपर विवेचित किए गए न्यायनिर्णयों में प्रतिपादित सिद्धांतों के अनुसार इस न्यायाधिकरण को ऐसे पक्षकारों का संशोधन प्रस्ताव स्वीकार किए जाने की अधिकारिता नहीं होने से इस न्यायाधिकरण की राय में यह न्यायाधिकरण यदि कोई अधिनिर्णय पारित भी करता है तो वह क्षेत्राधिकार के अभाव का होकर शून्य होगा। इन न्यायनिर्णयों के खण्डन में या अन्य कोई न्यायनिर्णय ऐसा पेश भी नहीं किया गया जिसमें कि ऊपर वर्णित स्थिति होने के बावजूद भी न्यायाधिकरण को निर्देश अधिनिर्णीत करने का अधिकार प्राप्त हो। अतः कुल मिलाकर स्थिति उक्त न्यायनिर्णयों के ही अभी तक प्रभावशील होने की पाई जाती है। माननीय उच्च न्यायालय एवं माननीय उच्चतम न्यायालय द्वारा पारित उक्त न्यायनिर्णयों में प्रतिपादित सिद्धांतों से यह न्यायाधिकरण आबद्ध है। अतः ऐसी परिस्थिति में सम्पूर्ण विवेचन के उपरान्त इस न्यायाधिकरण की राय में इतना ही कहना पर्याप्त है कि हस्तगत निर्देश/रेफ्रेन्स में प्रार्थी श्रमिक को नियमित किए जाने की तिथि का कोई अंकन नहीं होने से यह न्यायाधिकरण ऐसे निर्देश में कोई संशोधन कर अधिनिर्णय पारित करने की अधिकारिता नहीं रखता है एवं यदि पक्षकार सरकार से इस बाबत निर्देश/रेफ्रेन्स में संशोधन कराकर न्यायाधिकरण में पेश करते हैं तो न्यायाधिकरण ऐसा संशोधन प्राप्त होने पर प्रकरण में विधि अनुसार अग्रिम कार्यवाही कर सकेगा, परंतु इस प्रक्रम पर फिलहाल यह मामला इस न्यायाधिकरण के क्षेत्राधिकार के अभाव का पाया जाता है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासंगिक आदेश दिनांक 24.10.97 के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स विवाद को इसी अनुरूप उत्तरित किया जाता है कि हस्तगत निर्देश/रेफ्रेन्स में प्रार्थी श्रमिक इशाक के नियमितिकरण किए जाने की तिथि का कोई अंकन नहीं होने से व इस न्यायाधिकरण को पक्षकारों द्वारा सुझायी गई तिथि को स्वीकार किए जाने की अधिकारिता नहीं होने से निर्देश/रेफ्रेन्स में अप्रार्थी द्वारा नियमितिकरण नहीं करने की वैधता एवं उचितता का विनिश्चय कर अधिनिर्णय पारित किया जाना शून्य एवं क्षेत्राधिकार के अभाव का होगा। पक्षकार यदि सक्षम सरकार से प्रार्थी श्रमिक के नियमितिकरण तिथि बाबत संशोधन/अंकन कराकर न्यायाधिकरण में पेश करेंगे तो न्यायाधिकरण गुणावगुण के आधार पर विधि अनुसार आगे प्रकरण के निस्तारण की कार्यवाही कर सकेगा।

श्रीमती अनिता शर्मा, न्यायाधीश

नई दिल्ली, 21 जुलाई, 2015

का.आ.1508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमांडेंट रिमाउंट ट्रेनिंग स्कूल, सहारनपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 2, डेलही के पंचाट (संदर्भ संख्या 74/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 20.07.2015 को प्राप्त हुआ था।

[सं० एल-14011/01/2013-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 21st July, 2015

S.O.1508.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 74/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Commandant, Remount Training School, Saharanpur and their workman, which was received by the Central Government on 20.07.2015.

[No.L-14011/01/2013-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI

Present:—Shri Harbansh Kumar Saxena

ID No. 74/13

Joint Secretary,
Remount Training School & Depot Civil,
Karamchari Union, C/o Rajiv Sharma, H/N 3/7955,
Nand Vatika Dehradun Road, Opp. Remount Depot Gate,
Saharanpur (U.P.)-247 001 ...Workmen

Versus

The Commandant,
Remount Training School,
Saharanpur (U.P.) ...Management

NO DISPUTE AWARD

The Central Government in the Ministry of Labour *vide* notification No. L-14011/01/2013[IR (DU)] dated 3.07.2013 referred the following Industrial Dispute to this Tribunal for adjudication:—

"Whether the action of the management of Remount Training School & Depot, Saharanpur of depriving 10 civilian workers *i.e.* Shri Biram Chand (331006), Shri Sompal (6087), Vijay Kumar Talwar (6314), Ahsan (6115), Gurbachan (5521), Vidrapal (6361), Bir Singh (5798), Kiran Pal (5175) & Rajkumar (6186) of their HRA without approval of competent authority is justified? To what relief the workers are entitled to?"

On 23.07.2013 reference was received in this Tribunal. Which was registered as ID No. 74/2013 and claimants were called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workmen as well as management but neither workmen nor management filed claim Statement/Response to the reference.

In this background there is no option to this Tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings. On the basis of which none of the party can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated: 11.6.2015

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 21 जुलाई, 2015

का.आ.1509.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार म्युनिसिपल कारपोरेशन ऑफ डेलही के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय डेलही के पंचाट (संदर्भ संख्या 304/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 20.07.2015 को प्राप्त हुआ था।

[सं० एल-42011/57/2011-आईआर (डीयू)]

पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 21st July, 2015

S.O.1509.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. 304/2011) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Municipal Corporation of Delhi and their workmen which was received by the Central Government on 20.07.2015.

[No.L-42011/57/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT NO. 1, KARKARDOOMA
COURT COMPLEX, DELHI**

ID No. 304/2011

Ms. Geeta, through

The General Secretary,

Hospital Employees Union,

Aggarwal Bhawan, G.T. Road, Tis Hazari,

Delhi-110054 Workman

Versus

The Commissioner,

Municipal Corporation of Delhi,

Town Hall,

Chandni Chowk,

Delhi-100006

.....Management

AWARD

Brief facts giving rise to the above reference is that Ms. Geeta joined the service of Municipal Corporation of Delhi as safai karamchari on 20.12.2002. She worked regularly without any break since her joining to the entire satisfaction of her superiors and has an unblemished and uninterrupted record of service. Though she is working for 8 hours a day and the duty she performs is of regular nature, she has been termed as a part time safai karamchari with ulterior motive and *mala fide* intention amounting to unfair labour practice. Her wages is a meager Rs. 560.00 per month though she is discharging her duties for the last so many years, which is much lower than the wages fixed under the Minimum Wages Act, while her regular counterparts doing identical work are being paid salary in proper pay scale with usual allowances admissible under Rules. Action on the part of the management in not regularizing the services of the claimant in proper pay scale and allowances from initial date of her joining, denying her wages at par with her co-workers on the principles of 'Equal Pay for Equal Work' is illegal, bad, unjust, *mala fide* and amounts to exploitation of labour, which is violative of Articles 14, 16 and 39(D) of the Constitution of India and against the intention of the legislation as contained in Section 4 of the Equal Remuneration Act, 1976. It is also violative of Resolution 1002 of 5.1.1967 of the Standing Committee of Municipal Corporation of Delhi according to which name of the claimant should have been entered in the seniority list of muster roll sweepers from the initial date of her joining. Workmen junior to her have been regularized in service in proper pay scale and allowance. Demand notice was served on the management

on 12.09.2008. Conciliation proceedings also failed due to the adamant and non-co-operative attitude of the management. Prayer has been made that the management may be directed to regularize the services of the workman in regular pay scale and allowances with retrospective effect.

2. Since the matter could not be resolved, as such the workman approached the Union Government, who made reference to this Tribunal for adjudication *vide* order No. L-42011/57/2011-IR(DU) dated 12.08.2001 in the following manner:

"Whether the action of the management of Municipal Corporation of Delhi in not regularizing the services of Smt. Geeta (W/o Shri Vijay Singh) appointed as Part Time Safai Karamchari with effect from 20.12.2002 continued in employment and has completed more than 240 days in a year and her other colleagues have been regularized by the management of MCD, ignoring her claim, is legal and justified? What relief the workman is entitled to and from which date?"

3. After consideration of statement of claim by the workman, matter was listed for filing written statement on behalf of the management, who filed written statement, taking preliminary objections *inter alia*, maintainability, non-service of demand notice etc. It is also alleged that the claimant was engaged in IPP-VII Department, which is constituted to run the Project initiated by the World Health Organization. Apart from the claimant, there are already three regular full time safai karamcharis who perform work for 8½ hours. It is well established that part time workers are not workmen. The claimant was engaged for cleaning only for 4 hours a day on a fixed/consolidated remuneration of Rs. 560 per month (now revised to Rs. 1120). It is also mentioned in the appointment order of the claimant that 'the engagement will not entitle them to claim for regular or daily wage employee' which condition of engagement was duly accepted by the claimant. There is no policy for regularizing part time workers working in Health Department/ different medical institutions run by the management. Regularization policy relied upon by the claimant is applicable only to daily wage workers and not part time workers. The management is a Government organization and has its own rules and regulations, resolutions, office orders etc. for regulating service of its employees. Management also denied the other material averments contained in the statement of claim.

4. The claimant, Ms. Geeta, in support of her case, examined herself as WW1. Management, in order to rebut the case of the claimant, examined Dr. Harshlata as MW1. In the course of cross examination of Dr. Harshlata, it was brought to the notice of the Tribunal that the claimant is not interested in pursuing the claim petition. As such,

statement of the claimant regarding withdrawal of the case was separately taken.

5. It is pertinent to note that under the Industrial Disputes Act, 1947 (in short the Act), there is no specific provisions relating to withdrawal of reference made by the Government in terms of Section 10, sub-section 2A of the Act. However, the Tribunal can take cognizance of the facts stated in the statement made by the claimant on 10.07.2015.

6. In view of the statement made by the claimant at the bar on 10.07.2015, there is no need to answer the above reference or pass an award on merits. Moreover, the claimant herein is not interested in pursuing the present case. Hence, an award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

नई दिल्ली, 21 जुलाई, 2015

का.आ.1510.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार XPO रेफ्रिजेशन इंजीनियर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय कोलकता के पंचाट (संदर्भ संख्या 27/2013) को प्रकशित करती है जो केन्द्रीय सरकार को 20-07-2015 को प्राप्त हुआ था।

[सं. एल-42012/171/2014-आईआर(डीयू)]

पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 21st July, 2015

S.O.1510.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. 27 of 2013) of the Central Government Industrial Tribunal Cum Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the XPO Refrigeration Engineers and their workman, received by the Central Government on 20-07-2015.

[No. L-42012/171/2014-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 27 of 2013

Parties : Employers in relation to the management
of M/s. XPO Refrigeration Engineers

AND

Their workmen,

Present : **Justice Dipak Saha Ray,**

Presiding Officer

Apperance :

On behalf of the : Mr. R. Saha, Ld. Counsel for
Management Govt. of India, Dept. of Space
None for others.

On behalf of the : None

Workman

State: West Bengal

Dated: 9th July, 2015.

AWARD

By Order No. L-42012/171/2012-IR(DU) dated 26.04.2013, the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of M/s. XPO Refrigeration Engineers and M/s. Electro Dynamic is justified in terminating the services and denying full and final pay to Shri Bibhuti Sarkar, Sk. Afta Rahaman and Shri Naba Kumar Chakraborty w.e.f. 31.05.2011?. Whether principal employer is justified in its duty to regularize the service of 3 No. of workers, whose nature of job constitute perennial in nature? Whether the principal employer had filed in its duty to take action under Section 21(4) of CL (R&A) Act, 1970? If not, what relief the workmen are entitled to?"

2. When the case is taken up for hearing today, none appears on behalf of the workman in spite of service of notice though the Government of India, Dept of Space is represented by the Ld. Counsel concerned. It appears from the record that the workmen at whose instance the present reference case has been initiated, have not turned up for last two consecutive dates.

3. From such conduct of the concerned workmen it may be presumed that they are not interested to proceed with the case further. So, no fruitful purpose will be served in keeping the matter pending.

4. In view of the above facts and circumstances, present reference is disposed of by passing a "No Dispute Award".

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,
the 9th July, 2015

नई दिल्ली, 21 जुलाई, 2015

AWARD

का.आ.1511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वीओम नेटवर्क प्राइवेट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 77/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/07/2015 को प्राप्त हुआ था।

[सं. एल-42012/164/2014-आई आर (डीयू)]
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 21st July, 2015

S.O.1511.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Reference No. 77 of 2014) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the VIOM Network Pvt. Ltd. and their workmen, which was received by the Central Government on 20/07/2015.

[No. L-42012/164/2014-IR(DU)]
P.K. VENUGOPAL, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA****Reference No. 77 of 2014**

Parties: Employers in relation to the management of
M/s. VIOM Network Pvt. Ltd.

AND

Their workmen,

PRESENT : Justice Dipak Saha Ray,
Presiding Officer

Appearance:

On behalf of the : None for M/s. Viom Networks Ltd.
Management : Mr. Soumyak Bhattacharyya, Ld.
Counsel for M/s. Soltek Insolation
Pvt. Ltd.

On behalf of the : None
Workman

State : West Bengal.

Industry : Telecommunication.

Dated : 9th July, 2015.

By Order No. L-42012/164/2014-IR(DU) dated 03.12.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of M/s. Soltek Insolation Pvt. Ltd. is justified by terminating the service of Shri Bhuddadev Kundu is legal and/or justified? If not, what relief the workmen are entitled to?"

2. When the case is taken up for hearing today, none appears on behalf of the workman inspite of service of notice though the management/M/s. Soltek Insolation Pvt. Ltd. is represented by the Ld. Counsel concerned. It appears from the record that the workman at whose instance the present reference case has been initiated, never turned up before this Tribunal.

3. Considering the facts and circumstances it appears that the concerned workman is not willing to proceed with this case. So, no fruitful purpose will be served in keeping the matter pending.

4. In view of the above facts and circumstances, present reference is disposed of by passing a "No Dispute Award".

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,
The 9th July, 2015.

नई दिल्ली, 21 जुलाई, 2015

का.आ. 1512—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वीओम नेटवर्क प्राइवेट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 75/2014) प्रकाशित करती है जो केन्द्रीय सरकार को 20/07/2015 को प्राप्त हुआ था।

[सं. एल-42012/163/2014-आई आर (डीयू)]
पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 21st July, 2015

S.O.1512—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Reference No. 75 of 2014) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the VIOM Network Pvt. Ltd. and their workman, which was received by the Central Government on 20/07/2015.

[No. L-42012/163/2014-IR(DU)]
P.K. VENUGOPAL, Desk Officer

ANNEXURE

नई दिल्ली, 22 जुलाई, 2015

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA

Reference No. 75 of 2014

Parties : Employers in relation to the management of
M/s. VIOM Network Pvt. Ltd.

AND

Their workmen,

Present: Justice Dipak Saha Ray,
Presiding Officer

Appearance:

On behalf of the : Mr. Soumyo Deep Banerjee,
Management Ld. Counsel for M/s. Viom
Networks Ltd.
Mr. Chanchal Kr. Chandra,
Ld. Counsel with Mr. Soumyak
Bhattacharyya, Ld. Counsel for
M/s. Soltek Insolation pvt. Ltd.On behalf of the : None
Workman

State : West Bengal.

Industry : Telecommunication.

Dated: 8th July, 2015.

AWARD

By order No. L-42012/163/2014-IR(DU) dated 02.12.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of M/s. Soltek Insolation Pvt. Ltd. is justified by terminating the service of Shri Susanta Paul is legal and/or justified? If not, what relief the workmen are entitled to?"

2. When the case is taken up for hearing today, none appears on behalf of the workman inspite of service of notice though the management side was represented by the Ld. Counsel concerned. It appears from the record that the workman at whose instance the present reference case has been initiated, never turned up before this Tribunal.

3. From such conduct of the concerned workman it appears that he is not at all interested about this case. So, no fruitful purpose will be served in keeping the matter pending.

4. In view of the above facts and circumstances, present reference is disposed of by passing a "No Dispute Award".

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,
the 8th July, 2015.

का.आ.1513.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ टेलीकम्युनिकेशंस, रायपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/210/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-40012/15/98-आई आर (डीयू)]

पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O.1513.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/210/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Telecommunication, Raipur and their workman, which was received by the Central Government on 21/07/2015.

[No.L-40012/15/98-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/210/98

Shri Gopal S/o Lalmani,

Vill Ghatkachhar,

PO Saraipali,

Raipur

Workman

Versus

The DE,
Telecom Project,
7, Sahakari Marg-II,
Choubey Colony,
Raipur

Management

AWARD

Passed on this 1st day of July, 2015

1. As per letter dated 10.9.98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act., 1947 as per Notification No. L-40012/15/98-IR (DU). The dispute under reference relates to:

"Whether the action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating Shri Gopal, S/o Shri Lalmani, Ex-Mazdoor is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of workman is that he was appointed as mazdoor against permanent post in 1986. His services were discontinued from 16.2.88. He worked more than 240 days in the year 1986, 87. His services were discontinued for the reasons that there was no work. When dispute was raised by Ist party workman before ALC, Raipur challenging termination during conciliation proceeding, settlement was arrived on 27.12.89. As per said settlement, workman was reinstated immediately without backwages. After his reinstatement he was working from 1.1.91. He was continuously working for 240 days. His discontinuation by IInd party without notice, without paying pay in lie of notice, without paying retrenchment compensation is illegal. That his termination is in violation of Section 25-F(a,b) of ID Act. Employees junior to him had filed petition No. 196/90 before CAT Jabalpur claiming regularisation. Hon'ble Tribunal directed IInd party to accommodate the concerned applicants. As such the employees junior to him are reinstated in service. Termination of his service is illegal. Workman prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 6/1 to 6/2 opposing claim of the workman. IInd party submits that workman was not engaged by DE, Telecom Project, Raipur. Workman was engaged by DE Coaxial Cable Project, Raipur which was wound up on 31.3.91. It is further submitted that workman was engaged on muster roll on daily wage basis. Muster rolls are preserved for 5 years as per rules. Workman was not continuously working. The dispute is raised after 10 years. It is difficult to state whether workman was reinstated by management. Workman was engaged purely on temporary basis on muster roll for specific period and specific job. There was no question of his termination and workman was engaged as casual labour. There was no question of issuing one month's notice or payment of retrenchment compensation. Workman was discontinued as per the policy of Government of India vide letter dated 17.12.99. Workman was not appointed on basis of order passed in Original application 71/91 and 196/90 passed by CAT, Jabalpur. The claim of workman is not legal.

4. Workman submitted rejoinder at Page 7/1 to 7/2 reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|--|
| (i) Whether the action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating Shri Gopal, S/o Shri Lalmani, Ex-Mazdoor is legal and justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. Workman is challenging termination of his service for violation of Section 25-F of ID Act. Workman filed affidavit of his evidence. He has stated that he was continuously working without break from 1986 to 31.12.90. In his cross-examination, workman says he had passed 6th standard. He doesnot know English. His affidavit in english is submitted by his Advocate. That in his affidavit, he has stated that he was working in coaxial project. Co-axial cable Project was not different. workman again said that he was not working in DE Project, Raipur. Before his appointment, post was not advertised. Order in writing was not given to him. He was paid wages for his working days. Payment was also made for Sundays. He was working from 1986 to Jan-91. He completed more than 240 days continuous service. There were no holidays. Document Exhibit P-1 working days of workman are shown comes more than 240 days during the preceding year of his termination.

7. Management filed affidavit of witness Shri R.R. Yadav supporting contentions in Written Statement that workman was not engaged by IInd party rather the workman was engaged in DE Co-axial Cable Project which was wound up on 31.3.91. Workman was engaged on muster roll on daily wage basis. Muster rolls are preserved for 5 years. management's witness was cross-examined. In his cross-examination, witness of management has denied that workman had completed 240 days continuous service. Workman was not served with notice for termination. If evidence is appreciated carefully, the evidence of workman is supported by document P-1. Management has not produced any documents. Services of workman were not terminated by DE Telecom Project, Raipur. Evidence of workman is clear that he was working with Co-axial Cable Project. It is not impleaded as party to the proceeding therefore claim of workman against management cannot be upheld. For above reasons, I record my finding in Point No. 1 that illegal termination of services by IInd party is not proved.

8. In the result, award is passed as under:—

- (1) The action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating Shri Gopal, S/o Shri Lalmani, Ex-Mazdoor is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का.आ. 1514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ टेलीकम्युनिकेशंस, रायपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जबलपुर के पंचाट (संदर्भ सं. सीजीआईटी/एलसी/आर/ 92/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-40012/77/98-आईआर(डीयू)]

पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O. 1514.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/92/99) of the Central Govt. Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of the Department of Telecommunication, Raipur and their workman, received by the Central Government on 21/07/2015.

[No. L-40012/77/98-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/92/99

Shri Setram,

Village Ghat Kachhar, PO Signora,
Tehsil Saraipali,
Raipur

Workman

Versus

The DE,

Telecom Project,
7, Sahakari Marg-II,
Choubey Colony,
Raipur

Management

AWARD

Pssed on this 1st day of July 2015

1. As per letter dated 16.2.99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of

I.D. Act, 1947 as per Notification No. L-40012/77/98-IR(DU). The dispute under reference relates to:

"Whether the action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating Shri Set Ram, S/o Shri Kamrup, Ex-Mazdoor is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of workman is that he was appointed as mazdoor against permanent post in 1986. His service were discontinued from 16.2.88. He worked more than 240 days in the year 1986, 87. His services were discontinued for the reasons that there was no work. When dispute was raised by Ist party workman before ALC, Raipur challenging termination during conciliation proceeding, settlement was arrived on 27.12.89. As per said settlement, workman was reinstated immediately without backwages. After his reinstatement he was working from 1.1.91. He was continuously working for 240 days. His discontinuation by IInd party without notice, without paying pay in lieu of notice, without paying retrenchment compensation is illegal. That his termination is in violation of Section 25-F (a,b) of ID Act. Employees junior to him had filed petition No. 196/90 before CAT Jabalpur claiming regularisation. Hon'ble Tribunal directed IInd party to accommodate the concerned applicants. As such the employees junior to him are reinstated in service. Termination of his service is illegal. Workman prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 6/1 to 6/2 opposing claim of the workman. IInd party submits that workman was not engaged by DE, Telecom Project, Raipur. Workman was engaged by DE Coaxial Cable Project, Raipur which was wound up on 31.3.91. It is further submitted that workman was engaged on muster roll on daily wage basis. Muster rolls are preserved for 5 years as per rules. Workman was not continuously working. The dispute is raised after 10 years. It is difficult to state whether workman was reinstated by management. Workman was engaged purely on temporary basis on muster roll for specific period and specific job. There was no question of his termination and workman was engaged as casual labour. There was no question of issuing one months' notice or payment of retrenchment compensation. Workman was discontinued as per the policy of Government of India vide letter dated 17.12.99. Workman was not appointed on basis of order passed in Original application 71/91 and 196/90 passed by CAT, Jabalpur. The claim of workman is not legal.

4. Workman submitted rejoinder at Page 7/1 to 7/2 reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:—

- (i) Whether the action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating Shri Set Ram, S/o Shri Kamrup, Ex-Mazdoor is legal and justified? In Affirmative
- (ii) If not, what relief the workman is entitled to any relief. Workman is not entitled to any relief.

REASONS

6. Workman is challenging termination of his service for violation of Section 25-F of ID Act. Workman filed affidavit of his evidence supporting his contentions in statement of claim about his initial appointment in 1986. That he was continuously working for more than 240 days. His services were terminated in violation of Section 25-F of ID Act. His affidavit is also devoted to filing of Petition No. 196/90 by junior employees. That CAT Jabalpur had set aside the order of termination of those employees and directed to take them in service. Workman has failed to appear for his cross-examination. His evidence cannot be considered. Copy of order passed in OA 196/90 is produced on record. The benefit of said order cannot be extended to workman.

7. Management filed affidavit of witness Shri R.R. Yadav supporting contentions in Written Statement that workman was not engaged by 11nd party rather the workman was engaged in DE Coatal Cable Project which was wound up on 31.3.91. Workman was engaged on muster roll on daily wage basis. Muster rolls are preserved for 5 years. Management's witness was cross-examined. In his cross-examination, witness of management says showcause notice was not issued to workman, information of termination of workman was not given to Government of India. Any record of workman engaged as casual labour is not maintained. Muster roll of workman is not produced. Workman has not completed more than 240 days working. If evidence on record is appreciated, workman has failed to appear for his cross-examination and witness of management has re-affirmed that workman had not completed more than 240 days continuous service, workman has failed to establish that he was working more than 240 days before termination of his service, violation of Section 25-F of ID Act is not established by the workman. Considering the evidence discussed above, I record my finding in Point No. 1 in Affirmative.

8. In the result, award is passed as under:—

- (1) The action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating Shri Set Ram, S/o Shri Kamrup, Ex-Mazdoor is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का.आ.1515.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ टेलीकम्युनिकेशंस रायपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एव श्रम न्यायालय जबलपुर के पंचाट (संदर्भ सं. सीजीआईटी/एलसी/आर/209/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-40012/14/98-आईआर(डीयू)]

पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O. 1515.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/209/98) of the Central. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of the Department of Telecommunication, Raipur and their workmen, which received by the Central Government on 21/07/2015.

[No. L-40012/14/98-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/209/98

Shri Keshabo,
S/o Shri Lalmani, Village Ghat Kachhar,
PO Sighora, Tehsil Saraipali,
Raipur.

Workman

Versus

The Divisional Engineer,
Telecom Project,
7, Sahakari Marg-II,
Choubey Colony,
Raipur

Management

AWARD

Pssed on this 7th day of July 2015

1. As per letter dated 16.2.98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/14/98-IR(DU). The dispute under reference relates to:

"Whether the action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating

the services of Shri Keshabo, S/o Shri Lalmani Ex-Mazdoor is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/4. Case of workman is that he was appointed as mazdoor against permanent post in 1986. His services were discontinued from 16.2.88. He worked more than 240 days in the year 1986, 87. His services were discontinued for the reasons that there was no work. When dispute was raised by Ist party workman before ALC, Raipur challenging termination during conciliation proceeding, settlement was arrived on 27.12.89. As per said settlement, workman was reinstated immediately without backwages. After his reinstatement he was working from 1.1.91. He was continuously working for 240 days. His discontinuation by IInd party without notice, without paying pay in lieu of notice, without paying retrenchment compensation is illegal. That his termination is in violation of Section 25-F (a,b) of ID Act. Employees junior to him had filed petition No. 196/90 before CAT Jabalpur claiming regularisation. Hon'ble Tribunal directed IInd party to accommodate the concerned applicants. As such the employees junior to him are reinstated in service. Termination of his service is illegal. Workman prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 6/1 to 6/2 opposing claim of the workman. IInd party submits that workman was not engaged by DE, Telecom Project, Raipur. Workman was engaged by DE Coaxial Cable Project, Raipur which was wound up on 31.3.91. It is further submitted that workman was engaged on muster roll on daily wage basis. Muster rolls are preserved for 5 years as per rules. Workman was not continuously working. The dispute is raised after 10 years. It is difficult to state whether workman was reinstated by management. Workman was engaged purely on temporary basis on muster roll for specific period and specific job. There was no question of his termination and workman was engaged as casual labour. There was no question of issuing one months' notice or payment of retrenchment compensation. Workman was discontinued as per the policy of Government of India *vide* letter dated 17.12.99. Workman was not appointed on basis of order passed in Original application 71/91 and 196/90 passed by CAT, Jabalpur. The claim of workman is not legal.

4. Workman submitted rejoinder at Page 7/1 to 7/2 reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- (i) Whether the action of management of Divisional Engineer, Telecom Project, In Affirmative

Raipur (MP) in terminating Shri Keshabo, S/o Shri Lalmani, Ex-Mazdoor is legal and justified?

- (ii) If not, what relief the workman is entitled to?" Workman is not entitled to any relief.

REASONS

6. Workman is challenging termination of his service for violation of Section 25-F of ID Act. Workman filed affidavit of his evidence supporting his contentions in statement of claim about his initial appointment in 1986. That he was continuously working for more than 240 days. His services were terminated in violation of Section 25-F of ID Act. His affidavit is also devoted to filing of Petition No. 196/90 by junior employees. That CAT Jabalpur had set aside the order of termination of those employees and directed to take them in service. Workman has failed to appear for his cross-examination. His evidence cannot be considered. Copy of order passed in OA 196/90 is produced on record. The benefit of said order cannot be extended to workman.

7. Management filed affidavit of witness Shri R.R. Yadav supporting contentions in Written Statement that workman was not engaged by IInd party rather the workman was engaged in DE Co-axial Cable Project which was wound up on 31.3.91. Workman was engaged on muster roll on daily wage basis. Muster rolls are preserved for 5 years. Management's witness was cross-examined. In his cross-examination, witness of management says show-cause notice was not issued to workman, information of termination of workman was not given to Government of India. Any record of workman engaged as casual labour is not maintained. Muster roll of workman is not produced. Workman has not completed more than 240 days working. If evidence on record is appreciated, workman has failed to appear for his cross-examination and witness of management has re-affirmed that workman had not completed more than 240 days continuous service, workman has failed to establish that he was working more than 240 days before termination of his service, violation of Section 25-F of ID Act is not established by the workman. Considering the evidence discussed above, I record my finding in Point No. 1 in Affirmative.

8. In the result, award is passed as under:—

- (1) The action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating Shri Keshabo, S/o Shri Lalmani, Ex-Mazdoor is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का.आ. 1516.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ टेलीकम्युनिकेशंस, रायपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायलय, जबलपुर के पंचाट (संदर्भ सं. सीजीआईटी/एलसी/आर/16/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-40012/50/98-आईआर(डीयू)]

पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O. 1516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/16/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecommunication, Raipur and their workman, which was received by the Central Government on 21/07/2015.

[No. L-40012/50/98-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/16/99

Shri Makhru,
Village Ghat Kachhar, PO Signora,
Tehsil Saraipali,
Raipur

Workman

Versus

The DE,
Telecom Project,
7, Sahakari Marg-II,
Choubey Colony,
Raipur

Management

AWARD

Passed on this 1st day of July, 2015

1. As per letter dated 30.11.98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-40012/50/98-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating

Shri Makhun, S/o Shri Faggu Gada, Ex-Mazdoor is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of workman is that he was appointed as mazdoor against permanent post in 1986. His services were discontinued from 16.2.88. He worked more than 240 days in the year 1986-87. His services were discontinued for the reasons that there was no work. When dispute was raised by Ist party workman before ALC, Raipur challenging termination during conciliation proceeding, settlement was arrived on 27.12.89. As per said settlement, workman was reinstated immediately without backwages. After his reinstatement he was working from 1.1.91. He was continuously working for 240 days. His discontinuation by IInd party without notice, without paying pay in lieu of notice, without paying retrenchment compensation is illegal. That his termination is in violation of Section 25-F (a,b) of ID Act. Employees junior to him had filed petition No. 196/90 before CAT Jabalpur claiming regularisation. Hon'ble Tribunal directed IInd party to accommodate the concerned applicants. As such the employees junior to him are reinstated in service. Termination of his service is illegal. Workman prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 6/1 to 6/2 opposing claim of the workman. IInd party submits that workman was not engaged by DE, Telecom Project, Raipur. Workman was engaged by DE Coaxial Cable Project, Raipur which was wound up on 31.3.91. It is further submitted that workman was engaged on muster roll on daily wage basis. Muster rolls are preserved for 5 years as per rules. Workman was not continuously working. The dispute is raised after 10 years. It is difficult to state whether workman was reinstated by management. Workman was engaged purely on temporary basis on muster roll for specific period and specific job. There was no question of his termination and workman was engaged as casual labour. There was no question of issuing one month's notice or payment of retrenchment compensation. Workman was discontinued as per the policy of Government of India *vide* letter dated 17.12.99. Workman was not appointed on basis of order passed in Original application 71/91 and 196/90 passed by CAT, Jabalpur. The claim of workman is not legal.

4. Workman submitted rejoinder at Page 7/1 to 7/2 reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- (i) Whether the action of management of Divisional

Engineer, Telecom Project,
Raipur (MP) in terminating
Shri Makhun, S/o Shri Faggu
Gada, Ex-Mazdoor is legal
and justified?

In Affirmative.

- (ii) If not, what relief the
workman is entitled to?" Workman is not
entitled to any relief.

REASONS

6. Workman is challenging termination of his service for violation of Section 25-F of ID Act. Workman filed affidavit of his evidence supporting his contentions in statement of claim about his initial appointment in 1986. That he was continuously working for more than 240 days. His services were terminated in violation of Section 25-F of ID Act. His affidavit is also devoted to filing of Petition No. 196/90 by junior employees. That CAT Jabalpur had set aside the order of termination of those employees and directed to take them in service. Workman has failed to appear for his cross-examination. His evidence cannot be considered. Copy of order passed in OA 196/90 is produced on record. The benefit of said order cannot be extended to workman.

7. Management filed affidavit of witness Shri R.R. Yadav supporting contentions in Written Statement that workman was not engaged by IInd party rather the workman was engaged in DE Co-axial Cable Project which was wound up on 31.3.91. Workman was engaged on muster roll on daily wage basis. Muster rolls are preserved for 5 years. Management's witness was cross-examined. In his cross-examination, witness of management says show-cause notice was not issued to workman, information of termination of workman was not given to Government of India. Any record of workman engaged as casual labour is not maintained. Muster roll of workman is not produced. Workman has not completed more than 240 days working. If evidence on record is appreciated, workman has failed to appear for his cross-examination and witness of management has re-affirmed that workman had not completed more than 240 days continuous service, workman has failed to establish that he was working more than 240 days before termination of his service, violation of Section 25-F of ID Act is not established by the workman. Considering the evidence discussed above, I record my finding in Point No. 1 in Affirmative.

8. In the result, award is passed as under:—

- (1) The action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating Shri Makhun, S/o Shri Faggu Gada, Ex-Mazdoor is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का.आ.1517.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑर्डनेन्स फैक्ट्री, कटनी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. सीजीआईटी/एलसी/आर/95/05) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-14011/3 से 5/2005-आईआर(डीयू)]
पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O.1517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/95/05) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Ordnance Factory, Katni and their workman, which was received by the Central Government on 21/07/2015.

[No. L-14011/3 to 5/2005-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/95/05

General Secretary,
Ordnance Factory, Katni (MP)

General Secretary,
Mazdoor Sangh, Ayudh Nirmani,
Office 1/1 A Type,
East Land, Ordnance Factory,
Katni

General Secretary,
Ordnance Factory Pratiraksha Mazdoor Sangh,
Ordnance Factory, Type III 5/6
Vivekanand Nagar, KatniWorkman/Unions

Versus

General Secretary,
Ordnance Factory, KatniManagement

AWARD

Passed on this 3rd day of July, 2015

1. As per letter dated 8.9.05 by the Government of India, Ministry of Labour, New Delhi, the reference is received.

The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-14011/3 to 5/2005-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Ordnance Factory, Katni MP not granting initial pay scale of Rs. 320-400 to Mill Wright and Tool & Die Maker at the time of their appointment and giving after completion of their probation *i.e.* after two years is justified? If not, what relief the workers are entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 5/5 to 5/5. Case of Ist party Union is dispute is raised in representing capacity by the workmen who were appointed in the year 1996 onwards in trades of Mill Wright and Tool & Die Maker. That the workman of those categories are required to undergo apprenticeship training under the provisions of Apprentice Act, 1961. They were required to undergo training of 4 years. On completion of training, they were given certificate which is known as NCTVT certificates. An Expert Classification Committee was constituted to examine job contents of various semiskilled trade in the Defence installation working under the Ministry of Defence. Said committee gave its recommendations and it was made applicable *w.e.f.* 16.10.81. The Expert Committee had evaluated job contents on basis of score they recommended for grant of particular pay scale. On recommendation of Expert Committee, various trades were upgraded from pay scale of Rs. 196-232 to 210-290, from 210-290 to 260-400. However certain trades were left out, their cases were not properly considered. Therefore another committee under the chairmanship of retired Hon'ble Justice Shri Puri was constituted which was called Anomaly Committee.

3. The Anomaly Committee submitted recommendations pursuant to which 23 semi skilled trades were upgraded the pay scales of Rs. 210-290 to 260-400 *w.e.f.* 15.10.84. Certain employees employed in subsequent upgradation from 15.10.84 in lieu of 16.10.81 the various petitions were filed before various courts. The controversy was decided by Apex court in case of Bhagwan Sahay carpenter reported in AIR 1989 SC 1215. The action of the department granting pay scale Rs. 260-400 from 15.10.84 was not approved and the department was directed to give said benefit from 16.10.81. It is submitted that Expert Committee had allotted 327 marks to Mill Wright Trade. As per said rating, the mill wright should have been allowed pay scale of Rs. 320-400. However as such pay scale is not available, workman submits that he should be allowed pay scale 330-480 for Mill Wright and Tool and Die Maker. Alternately it is submitted that they may be allowed pay scale of Rs. 950-1500 revised pay scale 3050-4590 from 1-1-96. By amendment, Ist party workman submits that the Expert Classified Committee report considered various trades of

defence installation including various Ordnance Factories and 506 Army Base workshop for the purpose of job evaluation. The pay scale Rs. 210-290 was revised to Rs. 800-1150 by 4th Pay Commission. The pay scale was further revised to Rs. 2650 by 5th Pay Commission. The pay scale of Mill Wrights and Tool makers was 230-480 in 3rd CPC, revised to 1200-1800 in 4th CPC, 4000-6000 in 5th CPC. That as per order dated 15-10-84, 23 semiskilled grade were upgraded to skilled grade from 210-290 to 260-400. On such contentions workmen are praying IIIrd party is directed to provide pay scale 950-1500/ 3050-4590 for Mill Wright and Tool and Die Maker from the date of their initial appointment.

4. Management of 2nd party filed Written Statement at Page 6/1 to 6/7 opposing claim of the workman. 2nd party intends that the representative of Union raised dispute claiming higher pay scale from date of appointment in the year 1996 for post of Mill Wright and Tool and Die maker. The union have not submitted particulars of those workmen. Therefore the reference is not tenable. That workman in those two trades and in other technical trades are appointed in semiskilled grade 210-290 as per recruitment rules notified in SRO-18(E) of 1989 and SRO 185 of 1994. Workman related to present dispute after completion of their apprentice training in Ordnance Factory Katni and passing NCTVT were appointed in semiskilled trade of Mill wright and Tool and Die Maker in pay scale of Rs. 210-290. Appointment of those workmen were as per the provisions of the statutory rules under which recruitment is governed. Pay scale Rs. 210-290 was revised to Rs. 800-1100. Workman had accepted the appointment, the dispute is raised after long lapse of time. The workmen are not entitled to any relief.

5. 2nd party has further pleaded that initially semiskilled grade was Rs. 210-290 effective from 16-10-81. After recommendations of Expert Classification Committee, the workers in Ordnance Factory distributed in five scales (a) unskilled in pay scale 192-232, (b) semi skilled in pay scale 210-290, (c) skilled in pay scale of Rs. 260-400, (d) Highly skilled Grade II in pay scale of Rs. 330-480 and (e) highly skilled Grade I in pay scale of Rs. 380-560. Pay scale of Rs. 260-400 was revised to Rs. 950-1500. 2nd party also referred to ratio held in AIR 1990(SC)-675 contending that the workmen were appointed as per SRO-18 (E) of 1989 and SRO 185 of 1994. Employees are covered under ID Act. Reiterating above contentions and recommendations by Expert Committee, anomaly Committee, the pay scales were revised. Workman of both the trades fall in semiskilled category. Their claim for higher pay scale may not be accepted. On such ground, 2nd party submits that reference be answered in favour of management.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the

reasons as below:—

- | | |
|---|---|
| (i) Whether the action of the management of Ordnance Factory, Katni MP not granting initial pay scale of Rs. 320-400 to Mill Wright and Tool & Die Maker at the time of their appointment is justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workmen are not entitled to any relief. |

REASONS

7. The terms of reference pertains to claim of denial of pay scale 320-400 to Mill wright and Tool and Die Maker at the time of their initial appointment is in issue. Affidavit of evidence is filed by Shri Ganesh Pal supporting the claim of Ist party Union. The witness of Ist party has stated about the persons appointed in above trades are completing apprentice training known as NCTVT and recommendations of Expert Classification Committee was constituted to fix the salary on the basis of job evaluation and Anomaly Committee was constituted. As per recommendations of Anomaly committee, 23 semi skilled posts carrying pay scale of Rs. 210-290 to 260-400 *w.e.f.* 14.10.84. That Anomaly committee also prepared list of common category skilled job in which the Mill Wright Trade has also been included. Therefore the Mill Wright and Tool Makers who were already in the scale of Rs. 330 have been brought in Rs. 480/-. His affidavit is further devoted to Notification dated 22-12-79. As per SRO 185 of 1994, member of Union were directly appointed as highly skilled grade II, they were directly appointed against non-selection post. That affidavit is further devoted to job deserving higher grade classifications, as per terms of reference and understanding given to the Committee pay scales of Rs. 380-550 were not open to the committee for classification of industrial jobs. The matter was however examined by the Committee in detail. That the skilled job have secured points 420/425, the correlation of the point score adopted by the Committee provides for a rise of 25-30 points between different scales to distinguish one skilled level form another. Considering the rapid advance in certain technologies and intricacies and skills involved in the performance of connected tanks, the Committee recommended for grant of a scale higher than that of Rs. 380-560. Mill Wright High Scale appears at Sl.No. 14 and Tool Maker at Sl.No. 18. The details of the Trade is given in Para-9 of the affidavit. Witness of Ist party in his cross-examination says he claims pay scale Rs. 330-480 whereas demand as per terms of reference was for 320-400. The claim of witness of Ist party is exceeding the terms of reference. In his further cross-examination, witness of Ist party admits he was first given apprentice training in ordnance Factory. After completion of training, he was appointed as Mill Writer in semiskilled category. After his

appointment, he was received further training. He admits that there were recruitment rules for appointment.. his appointment was made as per SRO 185 of 1994. He admits that report of Expert Classified committee dated 16-10-81 provided for classification of pay scales. The Expert Classification report Exhibit M-2 the employees were placed in relevant pay scale. From 16-10-81 as per the report of Expert Classification Committee, recruitment rules were framed in 1984. As per recruitment rules of 1984, the entry is in semi skilled category. He denies that after completion of 2 years service semi skilled are brought in skilled category. The channel of promotion under SRO is for departmental promotions of employees. It does not apply to employees appointed as per rules Exhibit M-1. The witness of Ist party denies that rules framed for factory are not applicable for 506. There are separate recruitment rules for 506 army workshop. The witness of Ist party admits on 31-10-98, he was promoted from semiskilled to skilled category. On 27-5-05, he was promoted to highly skilled category II, on 11-8-07, he was promoted to highly skilled category I.

8. Management filed affidavit of witness Niranjan Lal, Joint General Manager, Administration in Ordnance Factory, Katni. Supporting contentions of management. That as per Executive instructions, the industrial workers in ordnance Factory have been classified from 16-10-81 to unskilled, skilled, highly skilled Grade I categories. That the requirement were 15% post in highly skilled Grade I, 20% in highly skilled Grade II and 65% in skilled grade. That workman accepted their initial appointment without any protest and continued in job. They also accepted promotion to next higher grade and still they got further promotions during these periods. Management's witness in his cross-examination says in Exhibit W-5, Annexure A, post of Mill Writer is appearing at Sl.No. 14, Tool Maker at Sl.No. 22. Exhibit W-5 annexure A the promotional post is not correctly shown, other grades are shown in it. The pay of Mill Wright and tool maker trade is fixed as per SRO. Separate documents are not maintained about fixation of the pay scales of Mill write and tool maker. The expert committee report and anomaly committee report were received in 1981, 84 respectively. Said Expert Committee report is produced at Exhibit W-6. The oral evidence of witnesses of both parties is not disclosing what kind of error was committed while fixing pay scale on recommendation of Expert Committee report, Anomaly Committee Report.

9. The documents produced on records needs to be considered. Exhibit W-1 report dated 15-10-84, the pay scales were recommended for semi skill from Rs. 210-290 were revised to 260-400. The Miller is appearing at Sl.No. 16. Said document at page 2 clause a deals with:

- (a) semiskilled categories to be identified by you or feeder categories in he pay scale of Rs. 210-290 already existing under the recent recruitment rules,

subject to the workers having rendered a minimum of three years service in the grade and after passing the prescribed trade test and

- (b) direct recruits with ITI certificate/Ex-trade, apprentices etc. inducted in the semiskilled grade who have rendered 2 years service in that grade.

It is clear that the semi skilled category whose pay was revised from 210-290 should have completed NCTVT training 2 years service.. Only on fulfilling said condition, the benefit of revised pay scale 260-400 was to be extended. In Appendix the post of Miller is appearing at Sl.No. 17. Exhibit m-1 is copy of recruitment rules of 1994 provides eligibility of semi skilled category in pay scale 800-1150. The candidate who have completed NCTVT training, ITI or equivalent diploma, 2 years service for direct recruitment. Said document is consistent with Exhibit W-1. Exhibit W-2 is nothing but copy of Exhibit W-1. Exhibit W-3 is copy of annexure Miller is appearing at Sl.No. 17, Mill write at Sl.No. 18. Exhibit W-4 is copy of Notification dated 10-12-79. The standards for eligibility to semi skilled category and promotional channel are not different. Exhibit M-2 is copy of order issued on 16-10-81. There is not variation in the documentary evidence produced by parties. As discussed above, evidence adduced by workman is not disclosing what error was committed by Expert Committee or Anomaly committee, the copy of judgment in Writ Petition No. 4368 of 2002 has brought to my notice by learned counsel for IInd party. The question involved for consideration was not identical as involved in present case. From reading of Para-11 of the judgment, it is clear that the controversy in above judgment was whether the applicants who were recruited after 16-10-81 but prior to 15-10-84 were entitled to get promotion in view of the recommendations given by the Expert Committee and the Anomalies Committee. The controversy was decided in view of judgment by Apex Court in case of Association of Examiners Muradnagar Ordnance Factory *versus* Union of India. Those who were not in position as on 16-10-81 in the semi skilled grade of Rs. 210-290 will be entitled to placement in the skilled category of Rs. 260-400.

10. The above judgment is useful for deciding the claim of Ist party for pay Scale Rs. 320-400.

11. In notes of argument submitted by Ist party, there is reference to letter dated 24-12-02. The semi-skilled Mill wright and Took Maker after completion of test of upgraded as master draftsman is not supported by any documents produced on record. Therefore the point emphasized in the notes of argument cannot be accepted.

12. The citations in case of Gan Raj Gandhewar and another is brought to my notice. In said judgment also, the claim of Ist party for Mill Wright and Took Maker Trades Promotion to the post of Master Craftsman was not under

consideration. Therefore ratio held in the case does not advance the claim of Ist party.

13. The counsel for management relies on ratio held in Case of P.S. Rai *versus* Union of India report in 2006(1) MPLJ 147. Their Lordship held Claim by employee to a pay scale not prescribed by rules not a claim for re-fixation of pay scales. Adjudication of such claim if belated would attract bar of limitation.

The judgment in case of Shri P.B. Venu Nath *versus* Union of India submitted by Ist party. The controversy in above cited case was w.r.t. Annexure A-15 Memorandum dated 1.2.08 by which respondent was promoted as chargeman Grade-II (Radio) in pay scale 5000-1508000. In Annexure A-2 Seniority list of combined personnel from Radar and Ratio Trade the position of 3rd respondent was Sl. No. 8 with his date of appointment as MCM on 4.2.2000 and that of applicant was Sl. No. 10 with date of appointment as MCM on 20.5.03.

The controversy related to the promotions therefore said judgment cannot be applied to present case at hand.

14. Thus is clear that after the Mill Wright and Tool Maker were allowed revised scale from 210-290 to Rs. 260-400 as per recommendation of Anomaly Report, there is no change in the pay scales of skilled category. The claim of workman that they were entitled to promotion as Master Craftsman after completion of training and completion of 2 years service is not supported by oral or documentary evidence therefore claim of Ist party is not established. For above reasons, I record my finding in Point No. 1 in Affirmative.

15. In the result, award is passed as under:—

- (1) The action of the management of Ordnance Factory, Katni MP not granting initial pay scale of Rs. 320-400 to Mill Wright and Tool & Die Maker at the their appointment is proper and legal.
- (2) Workmen are not entitled to any relief.
- (3) Parties to bear their own costs.

R.B. PATLE, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का०आ० 1518.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गन कैरिज फैक्ट्री, जबलपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जबलपुर के पंचाट (संदर्भ सं. सीजीआईटी/एलसी/आर/150/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.07.2015 को प्राप्त हुआ था।

[सं. एल-14011/19/2001-आई आर (डीयू)]

पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O. 1518.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/150/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Gun Carriage Factory, Jabalpur and their workman, which was received by the Central Government on 21.07.2015.

[No. L-14011/19/2001-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/150/2001

Shri Anant Narayan Sonekar,
S/o Late Shri Shiv Narayan Sonekar,
H. No. 40 (Old), 555 (New),
Khatik Mohalla, Ghamapur Chowk,
Balbagh, Jabalpur.

Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur.

Management

AWARD

Passed on this 25th day of June, 2015

1. As per letter dated 28.9.2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-14011/19/2001-IR(DU). The dispute under reference relates to:

"Whether imposing penalty of compulsory retirement on Shri Anant Narayan Sonekar S/o Shri Late Shiv Narayan Sonekar, Peon T. No. 2780 w.e.f. 22.2.2000 by the management of Gun Carriage Factory, Jabalpur is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 4/1 to 4/3. Case of workman is that he was employed as peon under IInd party No. 3. His Controlling Authority was IInd party No. 2 for his absence during period 98 to 99, chargesheet was served on him. Enquiry was conducted. Workman had contested enquiry. It is alleged that IInd party No. 3 without considering the circumstances put up by workman without following principles of natural justice and imposed punishment of compulsory retirement is harsh. That he had applied for leave. However, he was treated

unauthorized absence and punishment was imposed against him. He challenged punishment filing appeal. However the appeal was rejected on 9.6.2000. Ist party workman submits the order of compulsory retirement is disproportionate to the charge alleged against him.

3. IInd party filed Written Statement at page 5/1 to 5/5 opposing claim of the workman. IInd party submits that workman was appointed as messenger on 20.6.78 under IInd party No. 2. He was unauthorized absent for 238 days in 1998, 206 days till August in 1999. Workman was also absent in the year 1983, 92 & 96. Considering the misconduct, chargesheet was issued to him that on 26.12.99, workman admitted charge during course of enquiry. The report of enquiry was submitted. Taking its cognizance, the Disciplinary Authority imposed punishment of compulsory retirement. Appeal was rejected for cogent reasons. Enquiry was properly conducted. Workman had admitted charges against him. It is reiterated that the penalty imposed against workman is proper and legal. Claim of workman is not justified.

4. As per order dated 25.7.2013, enquiry conducted against workman was found proper and legal.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the charges alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of compulsory retirement imposed against workman is proper and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. As stated above, enquiry conducted against workman was found legal and proper. Whether the charges are proved from evidence in Enquiry Proceedings needs to be decided considering the documents in Enquiry Proceedings. In Exhibit M-1, workman has clearly stated that after death of his son age about 15 years in an accident, he was medically upset, he was not keeping good health. He submitted application for voluntary retirement which was not accepted. He admitted the charges against him. Exhibit M-2 is record of enquiry proceedings. Vide Exhibit M-10, workman admitted charges against him. In view of admission of charges, said fact is not necessary to be proved by adducing evidence. However, chart of attendance of workman is produced at Exhibit M-14. Therefore I record my finding in Point No. 1 in Affirmative.

7. Point No. 2 for unauthorized absence of workman punishment of compulsory retirement is imposed. Exhibit M-10 workman himself had submitted application for voluntary retirement, it was not accepted. Workman admitted charge in the Enquiry proceedings. Considering long absence from duty, punishment of compulsory retirement imposed against workman cannot be said shockingly disproportionate. The punishment imposed on him does not call for interference. For above reasons, I record my finding in Point No. 2.

8. In the result, award is passed as under:—

- (1) The punishment of compulsory retirement imposed on Shri Anant Narayan Sonekar S/o Shri Late Shiv Narayan Sonekar, Peon. T. No. 2780 w.e.f. 22.2.2000 by the management of Gun Carriage Factory, Jabalpur is legal and proper.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का०आ० 1519.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ टेलीकम्युनिकेशंस, जबलपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/2/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.07.2015 को प्राप्त हुआ था।

[सं० एल-40012/196/2001-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O.1519.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/2/2002) of the Central Government Industrial Tribunal-cum-Labour Court, **Jabalpur** now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Telecommunication, Jabalpur, and their workman, which was received by the Central Government on 21.07.2015.

[No. L-40012/196/2001-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/2/02

Shri Sukhdeen Sahu,
S/o Shri Dalchand Sahu,

Vill. Kheri PO Shahapur
Tehsil Patan, Jabalpur

.....Workman

Versus

Controller of Telecom Stores,
Wrighttown, Jabalpur.
Executive Engineer (Civil),
Telecom Civil Division No. 1, 1164,
Napier Town, Gorakhpur,
Jabalpur

...Management

AWARD

Passed on this 25th day of June, 2015

1. As per letter dated 18.12.2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/196/2001-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Controller of Telecom Stores, Jabalpur and Executive Engineer (Civil), Telecom Division No. 1, Jabalpur in terminating the services of Shri Sukhdeen Sahu w.e.f. 1.9.1987 is just and legal? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of workman is that he was appointed in establishment of respondent. He worked with IInd party from 8.4.83 to 24.6.84. Thereafter from 1.5.84 to 30.10.84, 3.8.87 to 1.9.87 under IInd party No. 3 Executive Engineer. He was relieved assuring to take back on duty when work was available. That large number of other persons were taken back on duty as they had succeeded in reference filed by them. Ist party workman was not regularised. He submitted application on 9.10.96, 29/30.10.96 but no reply was received. Legal notice was issued by workman on 7.11.96.

3. Workman further submits that orally in reply to his notice, it was told that his colleagues had filed case, secondly they were taken back. Workman also obtained copy of judgement by Tribunal of 28.8.95. The employees engaged prior to 22.6.88 were regularised, workman was not regularised. Workman further pleaded that the cut off date was extended by one year. Workman prays for regularization of his service.

IInd party filed Written Statement at Page 3/1 to 3/3 opposing claim of the workman. IInd party submits that Ist party workman was engaged for sprinkling water on Khas on contract basis wages during 83-84. As per IInd party, workman was engaged from 1.5.83 to 30.6.83, 8.4.84 to 15.6.84. In 1987, workman was engaged for 21 days in June, 30 days in July and 30 days from 3.8.87 to 1.9.87. It is reiterated that workman not completed 240 days continuous service.

Termination of his service is not in violation of Section 25-F of ID Act.

5. Workman filed rejoinder at Page 4/1 to 4/2 reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Controller of Telecom Stores, Jabalpur and Executive Engineer (Civil), Telecom Division No. 1, Jabalpur in terminating the services of Shri Sukhdeen Sahu w.e.f. 1.9.87 is just and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. Workman filed affidavit of his evidence supporting his contentions in statement of claim. He has narrated his working days in 1983-84, 1987. The certificates were issued by the officer. After re-examination, documents Exhibit W-2, W-4 are admitted in evidence. Workman in his cross-examination says in 1983, he was engaged in Telecom Stores, Jabalpur. Appointment letter was not given to him. It is denied that he had not produced the appointment letter given in 1983. In his further cross-examination workman says in 1983, he worked for 2 months in May and June. Thereafter he tried to assert that he was continuously working from 1983 to 1987. He was engaged on daily wages but wages were paid at the end of the month. Workman denied that he was engaged on work from 8.4.84 to 15.6.84. The documents produced by workman shows that he was engaged from 1.5.83 to 30.6.83. Appointment letter was issued by Asstt. Engineer includes name of workman. In Exhibit W-2 order dated 20.4.84, the workman was appointed temporarily. Exhibit W-1 is certificate issued by Junior Engineer, workman was working from 1-5 to 30-10 for wages Rs. 9/25 per day. The total number of working days are not shown in it. Document Exhibit W-4 is copy of legal notice issued by workman.

8. Management's witness Shri Chetram Choudhary filed affidavit of his evidence. The working days of workman in 1987 are shown 21 days in June, 30 days in July, 30 days from 3.8.87 to 1.9.87. Management's witness in his cross-examination claims ignorance whether the post was advertised. Workman was engaged as seasonal employee on daily wages. There was no rule for regularizing services

of casual employees. Workman were engaged under control of Asstt. Engineer. The cross-examination of management's witness shows that he denied suggestion that workman completed 240 days continuous service all the calendar years. The documents produced on record shows that workman was engaged as seasonal employee for sprinkling water. Workman was not continuously working for more than 240 days, workman was not covered as employee under Section 25B of ID Act, he is not entitled for protection under Section 25-F of ID Act. The claim of Ist party for regularization as per certain judgement relief by him. The term of reference pertains to legality of termination. The claim for regularization beyond the terms of reference cannot be accepted. Therefore I record my finding in Point no. 1 in Affirmative.

9. In the result, award is passed as under:-

(1) The action of the management of Controller of Telecom Stores, Jabalpur and Executive Engineer (Civil), Telecom Division No. 1, Jabalpur in terminating the services of Shri Sukhdeen Sahu w.e.f. 1.9.87 is proper and legal.

(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का०आ० 1520.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ टेलीकम्युनिकेशंस, जबलपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/8/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.07.2015 को प्राप्त हुआ था।

[सं एल-40012/389/2000-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O.1520.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/8/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Telecommunication, Jabalpur and their workman, which was received by the Central Government on 21.07.2015.

[No. L-40012/389/2000-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/8/2001**

Shri Shivram Bhargav,
S/o Shri Babulal Bhargav,
C/o Gopal Bhargav, Kurnolganj,
Shivaji Nagar, Guna

.....Workman

Versus

Chief General Manager,
Deptt. of Telecommunication,
Hoshangabad Road, MP Circle,
Bhopal.
District Engineer (Phones),
Guna

...Management

AWARD

Passed on this 19th day of June, 2015

1. As per letter dated 17.11.2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/389/2000-IR(DU). The dispute under reference relates to:

"Whether the action of the management of District Engineer (Phones), Guna in terminating Shri Shivram Bhargav S/o Babulal Bhargav w.e.f. 21.2.98 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 4/1 to 4/5. Case of workman is that he was appointed from 1-1-92 in General Cadre without giving any written order. He was carrying the work assigned to him time to time till 21-2-98. He completed 240 days continuous service during each of the year. He is engaged as employee under Section 25B of ID Act. From 21-2-98, he was preventing from doing his duties. There cannot be oral termination order. Workman submits that he is deemed to be in service. It is further submitted that his service were terminated after demand for regularization. He was not served with notice, retrenchment compensation was not paid to him. Termination of his service is illegal for violation of Section 25-F of ID Act. Workman has also pleaded about violation of Section 25-G, H of ID Act. List of daily wage employees was not deliberately prepared by the management. On such ground, workman prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 6/1 to 6/3 opposing claim of workman. IInd party submits that workman was not appointed in any post by the department

in December 1992. The contentions of workman in that regard are false. It is reiterated that workman was engaged for petty works in department. Few labours engaged to do various nature of work. After completion of specified petty work, engagement of labours automatically ends. It was made clear to the labours that after completion of the petty work, he would not be continued. Muster roll is stopped in 1985. Workman has not given any record of his working days. It is denied that workman completed 240 days continuous service during any of the calendar year. It is denied that workman is covered as employee under Section 25B of ID Act. Workman has no right to be regularised in service. Violation of Section 25-F, G, H of ID Act is denied. Workman is not entitled for reinstatement.

4. Workman submitted rejoinder at Page 8 reiterating his contentions in statement of claim.

5. Considering pleading on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

“(i) Whether the action of the management of District Engineer (Phones), Guna in terminating Shri Shivram Bhargav S/o Babulal Bhargav w.e.f.21-2-98 is justified? In Negative

(ii) If not, what relief the workman is entitled to? As per final order.”

REASONS

6. Workman is challenging termination of his service for violation of Section 25-F of ID Act. Workman has pleaded that he was continuously working for more than 240 days during each of the calendar year. The application for production of document was submitted by workman on 21-6-07. Application was opposed by management filing reply. Case was adjourned for filing affidavit in support of reply. However no order was passed for production of documents on above said application. Management has not produced any documents about working days of workman.

7. Workman filed affidavit of his evidence stating that he was appointed in general cadre without order in writing from 1-1-1992. Services were orally terminated from 21-2-98. In Para-3 of his affidavit, he stated that he completed 210 days in a calendar year. Additional affidavit is filed by workman that he completed 240 days continuous service during each of the year. Oral termination of his service is illegal. That he was terminated in violation of Section 25-F. He was not paid retrenchment compensation. Any enquiry was not conducted against him. In his cross-examination, workman says the post was not advertised. He submitted application to the clerk, his name was not

sponsored through Employment Exchange. He was not interviewed in writing or orally. He was engaged on daily wages in BSNL. He was paid wages for the days he worked. The justification is denied that he was engaged for petty work. It is denied that he not completed 240 days continuous service. In his cross-examination on additional affidavit, he says that Certificate Exhibit W-2 to 4 were given to him by the office. He denies suggestion that those certificates are false. Workman reiterates that he worked more than 240 days during last year of his service and all calendar year. The documents Exhibit W-2 to W-4 are certificates of working shows that workman was working with IInd party from 20-1-94 to 15-5-96 as per Exhibit W-2. He was working from 1-3-97 to 31-12-97 as per Exhibit W-3. He was working from 1-3-97 to 2-7-97 as per Exhibit W-4. The evidence of workman is supported by documents Exhibit W-2 to W-4. On the other hand, IInd party has not produced any documents despite application submitted by workman for production of documents. Management's witness Basant Kumar Pateria in his affidavit of evidence has stated that workman had never worked in the department. He was not issued any appointment letter. That casual labours were engaged in the department as per exigencies. Management's witness in his cross examination says from 1-1-1992 to 21-2-98, he was not posted at Guna. He was posted at Sagar during said period. Witness of management was unable to tell who were working as Asstt. Engineer and District Engineer at Guna district during above said period. Affidavit is prepared as per documents produced by workman. Copy of affidavit of Kailash Prajapati in R/51/01 is produced Exhibit W-1. I find absolutely no relevance of said affidavit for deciding present reference. Management's witness in his further cross says during the period 92 to 98, any record of daily wage employee was not maintained. He claims ignorance about such record. In his further cross-examination, management witness says Written Statement filed by IInd party is not stated that workman was engaged on daily wages. He has not received any information from officer working during 1992 to 1998. Thus evidence of management's witness is not as per his personal knowledge neither it is based on document. On the other hand, evidence of workman is supported by documents Exhibit W-2 to W-4 therefore evidence of workman is worth in reliance in comparison to the evidence of management's witness. Considering the evidence of workman supported by documents, it is established that workman was working more than 240 days during 1992 to 1998. His services are orally terminated without notice. No retrenchment compensation is paid to him. The termination of service of workman is illegal for violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No. 1 in Negative.

8. Point No. 2—In view of my finding in Point No. 1 termination of workman is illegal, question remains for decision is whether workman is entitled for reinstatement with backwages. Workman in his cross says the post was not advertised, he was not interviewed, he was submitted application to the clerk, he was orally engaged. Thus it is clear that workman was not appointed following recruitment process. Therefore reinstatement of workman would not be appropriate. Considering workman was working for about 6 years, compensation of Rs. One Lakh would be reasonable. Accordingly I record my finding in Point No. 2.

9. In the result, award is passed as under:—

- (1) The action of the management of District Engineer (Phones), Guna in terminating Shri Shivram Bhargav S/o Babulal Bhargav w.e.f. 21-2-98 is not proper and legal.
- (2) IInd party is directed to pay compensation Rs. One Lakh to the workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का०आ० 1521—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ़ टेलीकम्युनिकेशंस, रायपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एव श्रम न्यायालय, जबलपुर के पंचात (संदर्भ सं० सीजीआईटी/एलसी/आर/14/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-40012/45/98-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O. 1521.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/14/99) of the Central Government Industrial Tribunal Cum Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Telecommunication, Raipur and their workman, which was received by the Central Government on 21/07/2015.

[No. L-40012/45/98-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/14/99**

Shri Rankmani,

Village Ghat Kachhar, PO Signora,

Tehsil Saraipali,

Raipur

...Workman

Versus

The DE,

Telecom Project,

7, Sahakari Marg-II,

Choubey Colony,

Raipur

... Management

AWARD

Passed on this 1st day of July, 2015

1. As per letter dated 30-11-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-40012/45/98-IR(DU). The dispute under reference relates to:

"Whether the action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating Shri S.L. Rankmani, S/o Shri Dhanu Gada, Ex-Mazdoor is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of workman is that he was appointed as mazdoor against permanent post in 1986. His services were discontinued from 16-2-88. He worked more than 240 days in the year 1986, 87. His services were discontinued for the reasons that there was no work. When dispute was raised by Ist party workman before ALC, Raipur challenging termination during conciliation proceeding, settlement was arrived on 27-12-89. As per said settlement, workman was reinstated immediately without backwages. After his reinstatement he was working from 1-1-91. He was continuously working for 240 days. His discontinuation by IInd party without notice, without paying pay in lieu of notice, without paying retrenchment compensation is illegal. That his termination is in violation of Section 25-F(a,b) of ID Act. Employees junior to him had filed petition No. 196/90 before CAT Jabalpur claiming regularisation. Hon'ble Tribunal directed IInd party to accommodate the concerned applicants. As such the employees junior to him are reinstated in service. Termination of his service is illegal. Workman prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 6/1 to 6/2 opposing claim of the workman. IInd party submits that workman was not engaged by DE, Telecom Project, Raipur. Workman was engaged by DE Coaxial Cable Project, Raipur which was wound up on 31-3-91. It is further submitted that workman was engaged on muster roll on daily wage basis. Muster rolls are preserved for 5 years as per rules, workman was not continuously working. The dispute is raised after 10 years. It is difficult to state whether workman was reinstated by management. Workman was engaged purely on temporary basis on muster roll for specific period and specific job. There was no question of his termination and workman was engaged as casual labour. There was no question of issuing one month's notice or payment of retrenchment compensation. Workman was discontinued as per the policy of Government of India *vide* letter dated 17-12-99. Workman was not appointed on basis of order passed in Original application 71/91 and 196/90 passed by CAT, Jabalpur. The claim of workman is not legal.

4. Workman submitted rejoinder at Page 7/1 to 7/2 reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

“(i) Whether the action of

management of Divisional

Engineer, Telecom Project,

Raipur (MP) in terminating

Shri S.L. Rankmani, S/o Shri

Dhanu Gada, Ex-Mazdoor is

legal and justified?

In Affirmative

(ii) If not, what relief the

workman is entitled to?

Workman is not

entitled to any relief.”

REASONS

6. Workman is challenging termination of his service for violation of Section 25-F of ID Act. Workman filed affidavit of his evidence supporting his contentions in statement of claim about his initial appointment in 1986. That he was continuously working for more than 240 days. His services were terminated in violation of Section 25-F of ID Act. His affidavit is also devoted to filing of Petition No. 196/90 by junior employees. That CAT Jabalpur had set aside the order of termination of those employees and directed to take them in service. Workman has failed to appear for his cross-examination. His evidence cannot be considered. Copy of order passed in OA 196/90 is produced on record. The benefit of said order cannot be extended to workman.

7. Management filed affidavit of witness Shri R.R. Yadav supporting contentions in Written Statement that workman

was not engaged by IInd party rather the workman was engaged in DE Co-axial Cable Project which was wound up on 31-3-91. Workman was engaged on muster roll on daily wage basis. Muster rolls are preserved for 5 years. Management's witness was cross-examined. In his cross-examination, witness of management says showcause notice was not issued to workman, information of termination of workman was not given to Government of India. Any record of workman engaged as casual labour is not maintained. Muster roll of workman is not produced. Workman has not completed more than 240 days working. If evidence on record is appreciated, workman has failed to appear for his cross-examination and witness of management has re-affirmed that workman had not completed more than 240 days continuous service,

workman has failed to establish that he was working more than 240 days before termination of his service, violation of Section 25-F of ID Act is not established by the workman. Considering the evidence discussed above, I record my finding in Point No. 1 in Affirmative.

8. In the result, award is passed as under:—

- (1) The action of management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating Shri S.L. Rankmani, S/o Shri Dhanu Gada, Ex-Mazdoor is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer